United States Court of Appeals for the Second Circuit



APPENDIX

74-1926

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 74-1926

UNITED STATES OF AMERICA ex rel. DONALD E. RAMSEY, Relator-Appellant,

-against-

LEON VINCENT, Superintendent Greenhaven State Correctional Facility, Stormville, New York Respondent-Appellee.



ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

APPENDIX

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PAGINATION AS IN ORIGINAL COPY

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JUDGE FRANKEL

72 uv. 4660



Judgment :

PROCEEDINGS

Nov. 2-72	Filed petition for Writ of Habeas Corpus Filed affdvt. and petition for leave to proceed in Forma Pauperis Filed order permitting petitioner to proceed in forma pauperis without prepayment of fees, etc. Weinfeld, J.	
ov.28-7	2 Filed order that the time to serve and submit an answering affidavit	
5-0.00	be extended to 12-8-72. Gurfein, J. M/N	
Jec. 8-72		
Joe 20 7	Princi Affidavit in rebuttal by Potitioner. Princi Notice of Assignment to Judge Frankel.	
6-5-73	Filed memorandum dated June 6,19/3 that petitioner Danald & Ramsey	•
	is assigned counsel, Wm. H. Levit, Jr., 1 Chase Manhattan Plaza, HY, NY,	_
	and counsel is given 30 days to enter submissions and resp. may	
	have 15 days to enwer and counsel may have 1 wk. to enswer. Court	
	will proceed after papers are filed. So ordered, Frankel, J.m/n	
Jul. 3-/3	Filed affidavit of W.H. Levit, Jr. (Supplementary) in support of pecition	Lon,
111.3-73	for writ of habeas Corpus. Filed Relator's supplemental memorandum in support of petition for ,	
	writ of Habeas Corpus	
Jul 30-7	Filed respondent's memo in opposition to petitioners application.	
Jul 30-7	Filed respondent's affdiavit by David R. Spiegel.	
Jul 30-7	Filed respondent's affdiavit by Joseph S. Domanti.	
Aug 1-73	Filed Relator's affidavit by Patricia Dominus.	
Dec. 13-7	Filed memorandum-this memorandum is designed as a tentative statement of the problems on which evidence may be desirable or necessary and as an outline	
	of the procedural steps to be followed by counsel and court. The foregoing	
T	subjects are to be considered at a pre-hearing conference of counsel and the	
	court to be scheduled at a date as early as possible, FRANKEL, J. (m/n)	
Jec. 21-7	Filed pre-hearing memorandum.	
Feb.19-71		
March 7-7	petition. Filed respondent's affdvt. by Philip Epstein in opposition to petition.	
	in the state of th	
pr. 3-74	corrus ad tostallacandum.	
Apr. 5-74	Filed affdyt. of service by certified mail of pettition, etc. of Daniel F.	
	Houlihan to Mr. Leon Vincent. Filed writ of habeas corpus ad testificandum- Ret. 4-18-74. FRANKEL, J. (m/n)	100
Apr. 5-14	Filed writ of habeas corpus ad testificandum- Ret. 4-18-74. FRANKEL, J. (m/n) EVIDENTIARY HE RING begun and continued - APR 24	(IRe-
Apr. 23-11	TRIAL CONCLUDIED - APR 25 DECISION PESERVED	
May 13-71		CPRO-
	Filed memorandum- and Order- for the reasons stated- the petition is denied. So ordered- FRANKEL, J. (m/n)	
May 28-74		
1	of habous corpus ordered on 5-10-74. The filing of the within notice of	
·	appeal is granted without payment of statutory filing fee. So ordered	7
June 11-7	Frankel, J. Copy mailed to: Louis J. efkowitz, Esq. entered-5-29-74. Filed memo endorsed on letter dated 6-3-74. The within application for a	
1	contificate of probable cause is granted. So ordered- FRANKEL, J. (m/n)	
* May 2		•
Tune 19-74		ng (1.,
July 8-71		
July 0-11	USCA on 7-8-74.	
July 16-	7) Filed notice that the supplemental record on appeal has been certified and trans	itted
	Filed CJA 20the USCA on 7-16-71 fellein of Davis Polk &Wardwell, L Chase Manhattan Pl	
	as atty. for Bonald E. Bunsey, Mailed AO	
Jult 18-7	1. Filed "JA" copy approving payment to atty.	L9: 80
		- Contract Contract

1	UNITED STATES DISTRICT COURT
2	SOUTHERN DISTRICT OF NEW YORK
3	x
4	UNITED STATES OF AMERICA EX REL DONALD E. RAMSEY,
5	
6	Petitioner, : 72 Civ 4660
7	LEON VINCENT, SUPERINTENDANT, : GREEN HAVEN CORRECTIONAL FACILITY,
8	STORMVILLE, NEW YORK, :
9	Respondent. :
10	х
11	Before:
12	HON. MARVIN E. FRANKEL, D. J.
13	
14	Room 36 New York, April 24, 1974 10:00 o'clock a.m.
15	10:00 6 clock a.m.
16	APPEARANCES
17	William H. Levit, Jr., Esq.,
18	Sheila T. McMeen, Esq., Attorneys for the Petitioner
19	David Spiegel, Esq.,
20	Attorney for the Respondent
21	
22	
23	
24	

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(Both sides ready.)

THE COURT: All right. I think we don't need any opening statements, do we?

MR. SPIEGEL: Your Honor, there is just one point that we are a little concerned about. The scope of this hearing as constituted now covers three issues as I understand it: the Wade-Gilbert question, the alibi question, and the publicity question.

Now, you asked us for an additional brief or affidavit on the question of exhaustion and in regard to the publicity question, whether Mr. Domanti had safeguarded the petitioner's rights properly with regard to pretrial publicity, and we had indicated that there was no exhaustion. I was wondering if that issue was going to be covered at this hearing.

THE COURT: I don't know to what extent the petitioner or anybody would want me to take evidence on that.

Let me ask, who is speaking for the petitioner?

Do you have evidence you want to adduce on that subject?

MR. LEVIT: 'It would probably be confined to no more than five minutes at the most. I think on that issue we are basically going on the record as it now stands. As your Honor is well aware, we take issue with the People's position

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that there hasn't been exhaustion and I guess it's a legal question as to whether or not there has or has not been.

One thing I think that Mr. Spiegel stated which might not really be completely accurate, particularly in light of your Honor's memorandum of the 13th of December, is that your Honor specifically asked for evidence to be had on efforts to sell the petitioner's story and this is the alibit to which Mr. Spiegel alluded; also, the circumstances attendant to Mr. Ramsey being called as a witness at his trial, and we certainly intend to explore those matters today, and we will in part deal with the Wade-Gilbert matter, although there again is basically a legal question.

So the focus will be particularly on the matters raised in your memorandum with some other tangential matters surrounding the initial representation and so forth.

THE COURT: Well, let me be as helpful as I can to both sides, Mr. Spiegel, and also as candid as I am able to be, which I hope is fully candid.

I haven't resolved the exhaustion question on the subject of pretrial publicity, and I don't think I have to have resolved it before now for a couple of reasons.

First, it gets involved with the incompetent representation question in some ways. Secondly, I am told now that there is not a lot of evidence to be heard on it anyhow

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so I think what I want to do today is allow both sides, primarily of course the petitioner, to present any evidence that it thought the Court ought to have to resolve this petition for habeas.

In the end, I will rule on all the issues and insofar as I decide that any issue is not properly before this Court, if I have today received some evidence on it, I don't think any great damage will be done to anybody.

Now, in that in any way unfair to the respondents' position, Mr. Spiegel?

MR. SPIEGEL: The only question I have is, are we going beyond the scope now of the claims that are alleged in his papers? You say anything that --

THE COURT: Well, anything within the limits of a lot of writing that we have all done. Obviously I am not going to hear any evidence about a beaten confession today. In other words, I don't want to be expected to have made refined determinations about the issues that are open within the ambit of the things that have been litigated here, and I don't want to mislead you by saying that I have absolutely, finally crystalized those issues, but if you say to me that you are taken by surprise by any of this evidence, and that you need some relief on that score, I'll listen to you, and if there is some legitimate thing that ought to be done so

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22 23

that your side is fairly represented, we will do it.

MR. LEVIT: Your Honor, I can represent that everything we are going to bring out in this hearing as far as our two witnesses are concerned is already in the papers. There won't be anything in the way of a surprise.

THE COURT: I understand that.

MR. SPIEGEL: Then I can't see any need for any delay or any problem.

THE COURT: All right. You let me know as we go along. I just want you to know that that exhaustion question is not definitively decided. I am inclined to think, if I had to give you a hunch, that the petitioner has a decent go at that subject and you should assume that for the time being but I have not made a definite determination.

Look, I have one trivial question that I noted in looking over some notes about this to refresh my recollection:

There is a, I think, relatively subordinate question raised as to Mr. Domanti's reputation in his failure to order a transcript of the voir dire. I want to know at the outset just what that means, and let me be specific:

Is it the case that the voir dire was taken down by a shorthand reporter and that the connection is simply a failure to order a transcript of that, or was it not taken down in shorthand notes of any kind at all?

MR. LEVIT: My understanding, based on personal experience in the Supreme Court at that time in criminal cases as well as now, is that they don't take down the voir dire unless requested by counsel to do so and it's my understanding, although I can't say now this many years afterwards — it's rather difficult to be one hundred per cent sure but — based on the best information that I can elicit over at the Courthouse they don't have, as far as I can find, any notes and the inference to be drawn from that is that it was not requested that the voir dire be taken down, and it was our position that as a careful defense strategy you would also have everything on the record so as to preserve it for appeal.

Now, there is no record available and as I understand it, it was because it wasn't taken down and they said they should have it even if it weren't transcribed, if it were ordered to be taken down.

It could be because of the passage of time that it's been misplaced and it was taken down, but based on the inquiries I made last summer over there, I couldn't come upon it or even a copy of the untranscribed reporter's notes. I don't want to represent to the Court that it doesn't exist but that was all I was able to determine and I did make a diligent effort. So it's our position that that issue to a

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certain extent was not really preserved very adequately for appeal in terms of the factual background because of counsel's failure to assure that it was preserved. We did, as your Honor is aware, at one point submit an affidavit from one juror with respect to her recollection of the voir dire examination, and we are not calling her as a witness at this hearing.

THE COURT: Mr. Spiegel, does Mr. Levit's account square with your understanding about the voir dire? Again I don't know that this is an important question, but it just popped into my head.

MR. SPIEGEL: My understanding is that it is not a common practice to take voir dires, particularly at this time in question, and that as far as I understand from Mr. Dómanti, no voir dire transcript was requested, but that there was nothing extraordinary about this.

THE COURT: I don't care whether it's unusual but you are saying that nobody has any shorthand notes of that voir dire?

MR. SPIEGEL: Not to my knowledge.

THE COURT: 'Okay. Now let's proceed with the evidence that the petitioner wants to offer.

MR. LEVIT: Your Honor, as our first witness we carl Donald Ramsey.

1	Bal	D. Ramsey - direct 9
2	Q	Did you grow up in New York City?
3		Yes.
4	Q	At that time, were you residing in what is known
5		ly as the lower eastside of Manhattan?
6	A	Yes.
7	Q	And how long had you been living there as of
8	October of	
9	A .	Well, we moved down to the lower eastside of
10		in the year 1949.
11	Q	Prior to this robbery case that I alluded to a
12	few moment	s ago, in which the record is before this Court,
13	including	your testimony, at that trial, had you ever testifie
14	in court h	pefore?
15	A	Prior to the robbery, no.
16	· . q	What was your marital status as of October 1967?
17	A	Legally married.
18	Q	And did you have any children?
19	A .	One child.
20	Q	At that time how long had you been married?
21	A	As of October '67?
22	Q	Yes, sir.
23	Α	Okay. One year seven months.
24	Q	In connection with your petition for a writ of
25.	habeas con	rpus that you filed in this case, did you execute an

1	Bal D. Ramsey - direct	10
2	affidavit dated October 22, 1972?	
3	A Yes.	
4	Q Is there anything in that affidavit that yo	u would
5	want to change today or correct or is everything in the	ere to
6	the best of your knowledge true and correct?	
7	A Everything in there to the best of my knowle	edge
8	is true and correct and I would not like to change any	thing.
. 9	Q Did anybody assist you in preparing that af	fidavit
10	and the related papers that were submitted pro se to t	his
11	Court that gave rise to this proceeding here today?	
12	A Yes. I was greatly assisted.	0
13 -	Q Who was it that assisted you?	
14	A Dean William Fry of Columbia University.	They
15	had a project over there for people in the Green Haven	. And
. 16	also a student, Paul DuBlanc.	
12	Q Do I understand correctly that prior to fil	ing the
18	papers in this proceeding that you had filed similar p	apers
19	in Supreme Court, New York County, seeking similar rel	ief
20	under the New York statutes?	
21	A Yes.	
22	Q And that that relief was denied in its enti-	rety?
23	A Yes.	
24	Q As of October '67, did there come a time who	en you
25	first either met or had a communication with an attorne	ev

	1	Bal.	D. Ramsey - direct	11
	2	named Jos	seph Domanti?	
	8		Rephrase the question, please.	
	4	Q	Did there come a time in October 1967 when	you
	5	first eit	ther met on a face to face basis or had some	sort
	6	of commun	nication with a lawyer named Joseph Domanti?	
	7	A	Yes.	
	8	Q	When was that?	
• 1	9	A	I believe it was October 11th. 1967.	
	10	Q	Could you tell the Court the circumstances	?
	11	1 ₀ . A .	Yes. Domanti came to me at the Manhattan	House of
	12	Correction	on in the Tombs, and offering his services as	an
	13	attorney	and I accepted.	
	14	Q	At that time had you been arrested in conn	ection
	15	with the	double homicide of Linda Fitzpatrick and a ma	an
	· k	named Hut	chinson?	
	17	A	Yes,	
	18	Q	And you had already been arraigned on that	charge
	19	in the Cr	iminal Court in New York County?	
	20	A	Yes.	
	21	Q	And when you were arraigned, were you repre	sented
	22	by counse	1?	
	23		Yes, I was.	
	24	Q	Who was that?	
	25	X ,	Counsel was Bob Bloom, I believe the name w	

Bal 12 D. Ramsey - direct 1 B-L-0-0-M? Q 2 Yes. 3 Q Who was he with? He was associated with the Legal Aid Society. In other words, when Mr. Domanti came to see you 6 Q on the 11th of October you were already represented on the 7 8 homicide case Mr. Bloom of Legal Aid? Yes. 10 As best you recall, what did Mr. Domanti state to you when he met with you at the Tombs? 11 12 He introduced himself to me as an attorney. He 13 told me that he was requested to come see me by a friend of 14 mine; he said it was from a book shop in the neighborhood, 15 that he would like to represent me free of charge; I wouldn't 16 have to worry about the fee -- when I inquired about the fee, 17 that he represented hippies in the neighborhood free of 18 charge, a lot of run away children, kids, he said. He said 19 a lot of run away kids come to him for assistance and which he 20 do represent. 21 Did you in fact know this man from the book store 22 that he referred to that had sent him to see you? 23 No. 24 Did he mention a name? 25

Yes, he did.

Ba1 D. Ramsey- direct 13 What was that? 0 I believe, well, the last name was Moore, and I believe the first name was Joseph. Q But he said that he had spoken with Mr. Moore and Mr. Moore wanted him, Mr. Domanti, to come and see you? Yes. Did he say whether or not he had been in touch with your wife or your mother prior to coming to see you? 10 A The first time on October 11th? 11 Yes. Q 12 No, sir, he did not. 13 Q That was not discussed? 14 No. 15 Was there any discussion in this first meeting Q 16 about what Mr. Domanti expected to get out of the representa-17 tion of you in this case, since you indicated he was not going 18 to receive a fee? 19 No. On his first time Domanti spoke with me on, 20 I believe the date was October 11, 1967, he only mentioned that 21 he represents hippies in the neighborhood, run away kids in 22 the neighborhood and run away kids that come to him for legal 23 assistance; that he was not interested in money at the time 24 and, you know, he would render the services for me because he 25 was asked to help me.

1	Bal D. Ramsey - direct 14
2	Q By Mr. Moore?
3	A By Mr. Moore, right.
4	Q Did he say anything about his prior experience and
5	background in the representation of criminals
6	A Yes, he did.
7	Q What did he say?
8	A He told me that he worked on the George Whitmore
9	case, the famous George Whitmore case, and he mentioned a
10	couple of other cases that I don't recognize. That was it.
11	Q Did he ask you at that time to sign any piece of
12	paper?
13	A No.
14	Q Did he at that time ask you for any kind of a
15	statement of the facts of your whereabouts and so forth on
16	the day of these homicides?
17	A Yes.
18	Q Did you give him a statement as to those facts?
19	A Yes.
20	Q And did he take notes while you were talking?
21	A Yes, he did.
22	Q After that initial visit what was your next contact
23	with M:. Domanti either by letter or face to face or telephone
24	A I believe it was the following day he returned.
25	. It would have been the 12th.

Ba 1

D. Ramsey - direct

Q And what transpired at that meeting? I take it it was again at the Tombs?

A Yes.

Q Do I understand correctly that from the date of your arrest on the homicide case, which I think the record will indicate was the 8th of October, until today you have been incarcerated continually; you have never been out of either the Tombs or State Prison; is that correct, or the Federal House of Detention?

A This is correct.

Q So the next visit again was at the Tombs on the 12th and you are going to tell us what he said at that time?

A Exactly. He further went into it, into my activities of that evening, the night of October 7. He went into my activities at the precinct which would have been October 8. He went into my, into my general character, my life development in the community and the various schools I attended, other places of incarceration, delinquencies, along those lines.

Q Did there come a time in either that meeting or a subsequent meeting when there was a discussion about your preparing a draft of the events that transpired on October 7? In other words, writing up these matters and giving them to Mr. Domanti?

- A Yes, there came a time.
- Q When was that?

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A I believe this was the next day, which would have been about the 13th. Domanti came to visit me again at the Tombs and we again went into talking about what transpired the night of the homicides so he asked if I would write them down for him, and I told him yes I would write it down, and he said, well, how well do I write and I told him, well, I can write a story, I can relate. So he said if I would write down the facts and write it out in a story form that he would be able to sell this.

- Q Did he say how you would be able to sell it or he would be able to sell it?
 - A Yes.
 - Q What did he say?
- A He said that "We will be able to sell it, that" -no, excuse me. He said he has a friend that works in the
 New York Post and that he would sell it to this man and this
 man would publicize it in the papers and would sell the
 story, and that we can obtain money, not me but I can obtain
 money for my young family which consisted of a wife and child
 at the time.
- Q Did he say whether or not he was going to take any of the money that would be received from the story?

1	Bal D. Ramsey - direct 18
2	A No. This would have been at Riker's Island.
3	Q At Riker's Island?
4	A Excuse me, no. He never came to Riker's Island.
5	This would have been from when I went from Riker's Island to
6	one of the proceedings.
7	Q At 100 Centre Street?
8	A Yes.
9	Q Car you tell us as best you recall what was said
10	on that occasion about receiving monies from the story?
11	A Right. He was estimating that the story when
12	I inquired with him the happenings of the story, being that I
13	had already submitted it to him, he estimated that maybe
14	\$25,000 or something like this can be obtained.
15	Q Did he ever mention the name of his contact that
16	you referred to a moment ago, with the New York Post?
17	A If he mentioned it I don't remember the name.
18	C He might have but you don't know?
19	A He might and he might not have.
20	Q You said a moment ago that you did in fact give
21	him your story. As best you can recall when was that?
22	A This would have been the 14th. Excuse me. I am
23	trying to get the date. It would have been the Saturday, the
24	9th was Monday the 14th. The 14th of October, 1967. On
25	a Saturday I believe it was.

19 Bal D. Ramsey - direct October 7th was a Saturday? Q Plus seven would be Saturday the 14th. 3 About how long was this story that you prepared Q and gave to him? 5 About 12, 13, 15 pages. And did he tell you what he proposed to do with it 7 Q 8 in terms of either rewriting it or editing it or --9 He said that his friend who worked for the New York Post, " believe it was the editor of the New York Post, would 10 handle the story directly. I imagine he would have rearranged 11 12 it or however. 13 Q And whatever happened to this story? Was it ever 14 in fact published? 15 Not to my knowledge. 16 Did there ever come a time when you received a Q. 17 copy of that story back from some source other than Mr. 18 Domanti? 19 There became a time when I momentarily or temporarily 20 received a copy back, a Xerox copy of it long enough to have 21 read it and returned it back. 22 When was that? Q 23 This was in the year 1969. I would say around May 24 or June of 1969. 25 Tell us what happened at that time.

D. Ramsey- direct

- A Yes. As regards to the story?
- Q Yes.

A I was going to one of the proceedings along with newly retained counsel, Mr. William Crane, as records the homicide proceeding as previously mentioned and counsel, Mr. Crane, he came from the court room and I was in the bull pen, and he came to the court room to me and a Xerox copy of the story which I had given to Domanti two years prior.

Now, when I asked him where did he get this from, because I had been inquiring with him --

MR. SPIEGEL: I will have to object to this as hearsay. Mr. Crane is not available and it seems to me it's getting into testimony as to statements that were made by Mr. Crane.

MR. LEVIT: We are not offering the statements for the truth of the matters asserted but simply for the fact of what Mr. Crane said to Mr. Ramsey, not whether or not it's true.

THE COURT: Why is it material to me what Mr. Crane said to Mr. Ramsey?

MR. LEVIT: He apparently made a statement, as I understand it, to Mr. Ramsey as to the fact that he was handing him a Xerox copy of the document. I think Mr. Ramsey is competent to testify as to whether or not that in fact was

21 D. Ramsey- direct Bal a Xerox copy of the story that he had given to Mr. Domanti and in that connection I think it is relevant what Mr. Crane . 3 may have said, not whether it's true or not --THE COURT: Why is it relevant? What is it going 5 to show that I care about in this proceeding? 6 MR. LEVIT: I think it will show that he in fact 7 obtain :d it or said he did and whether he did I don't know --8 THE COURT: The objection is sustained. I don't want to hear what Mr. Crane said. If it's material how he 10 got it in this proceeding, which I doubt, then you are going 11 to have to call Mr. Crane. 12 MR. LEVIT: Well, Mr. Crane, unfortunately, is 13 not locateable. He apparently no longer practices law where 14 the phone book indicates he does. 15 THE COURT: Is that true? It was not true very 16 17 recently. MR. LEVIT: I am not in New York on a full time 18 19 basis. THE COURT: Well, Miss McMeen is and Mr. Crane 20 has been around a great deal but, in any event, if you are 21 22 trying to prove, as evidentally you are, how Mr. Crane got that menuscript, I am not going to let you prove it by hearsay. 23 24 MR. LEVIT: Well, for purposes of this hearing 25 then we will just have to go without that explanation.

Bal D. Pameey - direct	23
	23
A Okay. I can accept it.	
Q That sounds correct?	
A I can accept it.	
Q It's not really that important one way or the	he
other but it's the end of November that you first	
A Exactly.	
Q And would you tell us the circumstances in	which
you were first apprised of the fact that you were being	B
charge with robbery of the Project Liquor Store?	
A Yes. I was being transferred from the Riker	r's
Island Hospital where I was to court for	
MR. SPIEGEL: Your Honor, may I interrupt fo	or a
	CIMONY
	ited.
to pleed to the alleged robbery case, the one of questi	on.
And that's the first you learned of the fact	that
	A I can accept it. Q It's not really that important one way or the other but it's the end of November that you first A Exactly. Q And would you tell us the circumstances in a you were first apprised of the fact that you were being charged with robbery of the Project Liquor Store?

1	Bal	D. Ramsey - direct	24
2	you were i	mplicated in a robbery?	
3	A	Yes.	
4	Q	At that time, end of November of '67, you ha	ve
5	already te	stified I believe that Mr. Domanti was repres	enting
6	you on the	homicide case; is that correct?	
7	A	Yes, sir.	
8	Q	Was he representing you on any other case?	
9	A	Yes, he was.	
10	Q	What was that?	
11	A	An alleged rape case.	
12	Q	Just tell us briefly what that involved.	
13	A	It involved the illegal activity on a female	's
14	body, alle	ged rape.	
15	Q	On what day?	
16	· · Å	Excuse me; I don't understand the question.	
17	Q	Did the rape supposedly occur about the same	time
18	as the hom	icide?	
19	A	Yes.	•
20	Q	And when he took on representation of you on	the
21	homicije h	e also agreed to represent you on that relate	d
22	rape case?		
23		Yes.	
24	Q	And what did he tell you, if anything, in th	e way
25	of more de	tails about this robbery when you were being	trans-

D. Ramsey - direct

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ported, I guess, to the courtroom at 100 Centre Street in the end of November? 3 He told me that they had indicted me on the robbery case, that I was being brought to court in addition to the 5 6 other case I was being brought to court for plea to this 7 case. He asked me did I commit the robbery and I told him of course not and he went into small details as regards the robbery to enlighten me and I told him, 'Well, I am utterly innocent on this". He said, "All right. Well, we will plead 10 11 not guilty". 12 Q Did he ask you whether or not you wanted him to 13 represent you on the robbery case as well? 14 No. He said he would automatically do it. 15 Did he tell you that he had in fact a week earlier 16 'already filed a notice of appearance on your behalf in that 17 robber; case, namely on November 21, 1967? 18 He never told me. no. 19 Q He never did? 20 He never did. 21 Q But in any event you first learned of it the day 22 of the arraignment on the robbery; is that correct? 23 Yes. When I first learned of it. 24 Did he say whether or not there was a co-defendant Q 25 in the robbery case named in the indictment?

D. Ramsey- direct

shop, being that I was a customer there for several years and knew most of the people that worked there.

Q Did he tell you at that time what his general strategy was with respect to representing you in the homicide, the rape and the robbery, how he planned to proceed?

- A In general, yes.
- Q What did he say?

A He said that we would proceed first with the robbery, and then along with the alleged rape, and then with the homicides last. He said that we would handle the robbery first because this he would just win right away, knock this right out.

We would handle the rape case next and show, from the robbery case, we will show that the publicity, the news media has shown adversely to me, that it was inaccurate as they were showing it. The robbery would show that on the rape and the rape case, the alleged rape case would also be knocked right out and this he would -- from this he would go to a panel conference and, along with one other fellow who was coaxed to implicate me in a homicide case, and him and this man would have a, what would they call it, a press conference?

- Q I don't know what you are referring to.
- Well, when you stand before a panel, and television

1	Bal D. Ramsey - direct 28
2	cameras before you and you put this over the news or you
3	project over the news, what would they call it?
4	Q I understand what you are saying.
5	In other words, after you had won the robbery and
6	the rape case, there would be a television panel?
7	A Yes.
8	Q Or a press conference?
. 9	A Yes.
10	Q And who was going to participate in this affair?
11	A Domanti and the fellow that would testify that
12	he was coaxed to implicate me in the
13	MR. SPIEGEL: I am not sure I understand the
14	materiality of this. This seems very, very tangential, your
15	Honor.
· 16	THE COURT: Well, let's allow him. I can rule
17	on its materiality later and you can argue about it if we
18	take post trial briefs.
19	MR. LEVIT: Your Honor, if it will help things
20	along, I think that this is going into Mr. Domanti's general
21	approa:h to this case
22	THE COURT: 'I've allowed it so why don't you go
23	a head.
24	Q Can you elaborate on your last answer? I think
25	Mr. Spiegel indicated he didn't quite understand what you were

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where I believed Kibogoyo, also known as Richard Curtis, or vice versa, was living on 180th Street and Arthur Avenue. I believe the number was 2244 or something in that particular contact was made with Richard Curtis and Domanti. Also, I gave him another fellow to use as a witness in my behalf, one Reed, James Reed, from the lower eastside at 40 Avenue D.

O Did you tell him whether your wife could be of assistance to him in helping locate these people and putting him in touch with them?

A Yes, I did, being that I was in prison and Reed himself was right in the neighborhood, and my wife knowing where Kihogoyo lived, and she could go there by subway or take him by subway. Many times we went by subway and also by public transportation, taxicab.

Q At that time or at any later time did you ever supply Mr. Domanti with any telephone numbers for any of these people?

A No.

Q Did he say that he would in fact try to locate those individuals and talk to them?

A Yes, he did:

Q After this initial meeting did there ever come a time when Mr. Domanti told you he either did or did not make contact with these people?

1	Bal D. Ramsey - direct 32
2	A He did make contact along with a couple of the
3	witnesses, these people.
4	Q Would you tell us what he said or how you came
5	to learn that he made contact?
6	A Well, he told me he spoke along with Jerry Reed.
7	Q Jerry or James Reed?
8	A Excuse me. Jerry is the brother. I was raised
9	up with both of them. James Reed.
10	I don't recollect what he said as regards his
11	Richaro Curtis contact, but I do know that he was introduced
12	to Richard Curtis and his wife, his ex-wife, at one of the
13	proceedings I had in the courtroom itself.
14	Q What month would that have been?
15	A This was October 22, 1967.
. 16	Q Did there ever come a time when Mr. Domanti told
17	you that he was having difficulty in tracking down either
18	Reed, Curtis, Jones or Aponte and needed help?
19	A Never.
20	Q Did you ever hear that from your wife that there
21	were troubles in locating any of these people?
 22	A Yes, I heard it from them.
23	Q When was that?
24	A Well, my wife visited at ever regular opportunity
25	and approximately I inquired of her, "Well, did the people

1	Bal D. Ramsey - direct 33
2	show, did the friends show up to the lawyer" and she says
3	"Unfortunately, no".
4	Q What did she say?
5	A She said as far as she knows, no.
6	Q Did she say Mr. Domanti wanted her assistance in
7	trying to find the people or he was going to take care of
8	it or "hat did she say?
9	A Well, Domanti gave, well, gave the influence to
10	me, the understanding to me that he was going to take care of
11	it, of tracking down the witnesses. I don't believe he asked
12	for her assistance in doing it. I don't know.
13	Q Did he ever tell you as to what witnesses he was
14	intending to call in your defense, if any, at the robbery
15	trial?
· 16	A Yes.
17	Q When was the first time you had such a discussion,
18	if there was more than one.
19	A Would have been when we discussed the robbery
20	case, and I had told him about a fist fight that one of the
21	clerks and I had, and he asked me as regards anyone to witness
 22	that fist fight, and I gave him the James Reed, who had
23	witnessed the fist fight. He said he would call James Reed
24	as a witness to testify in my behalf.
25	Now, this must have been early December, 1967.

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D. Ramsey - direc	D.	Ramsey	-	direc
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You said a moment ago that James Reed lived at 40 Avenue D. Where is that in relation to the Project Liquor Store?

40 Avenue D would be -- objection, Project Liquor Store is on Avenue D between 5th and 6th Street. It's closer to 5th Street than 6th Street. 40 Avenue D is between 4th and 5th Street. It's right off Avenue D. It would be a half block east of Avenue D. So we have going south, we would take one block south and a half a block east.

So, in other words, James Reed lived right in Q the neighborhood of the alleged robbery?

Definitely.

Did Domanti say anything to you at any of these Q visits as to whether or not he planned to call you to testify in your own behalf at the trial?

Yes, he says something as regards it. A

When was that the first time?

The first time Domanti told me that I would testify in my own behalf at the trial was --

No, about whether or not he would call you or he wouldn't call you, did he discuss that?

Yes, him and I, we discussed this. We discussed this -- we discussed this the same time when we discussed the activity of the alleged robbery, and this would have been,

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at the trial?

DeSa1

D. Ramsey- direct

A Yes.

Q And Mr. Domanti said he was going to call you to the stand to identify the checks?

A Yes. He didn't say he was going to call me to the stand, he said I would be taking the stand to identify the checks.

Q Did he say whether or not he was going to ask you any other questions?

A No, he did not.

Q Can you tell us how it came to be, if you know, how these checks were produced at the trial and what they were?

A The checks were procured at the trial, I believe, through Domanti's secretary. How I know what they were, they were checks that I myself have cashed, bearing my signature. I believe they bear my signature. I don't know. I know I was able to identify the checks.

Q That was the first you learned that you were going to take the stand at the trial?

A Yes.

Q I see. At any time prior to that or subsequent to that before you actually testified, did Mr. Domanti go over with you what you were going to say when you were on the witness stand?

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D. Ramsey- direct

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A No, he did not.

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Q I want to read you one or two questions and one or two snawers that you gave during your examination and ask you whether they are correct according to the best of your knowledge today or whether there is anything that we should correct in them today, and this is at page 192 of the trial transcript, Redirect by Mr. Domanti. The first question on redirect -- excuse me, not the first question on redirect but the continued redirect.

"Q Mr. Domanti, when you took the stand yesterday did you know what questions I was going to ask you.

"A I did not know what questions you were going to ask me.

"Q When is the last time I visited you?

"A The last time you visited me?

"Q Yes.

"A About three weeks ago, I believe.

"Q Did I come to see you last night?

"A Did you come to see me? No, you did not."

Q To the best of your knowledge are your answers truthful and correct to those questions?

A Yes.

Q So, in other words, you hadn't seen Mr. Domanti for approximately three weeks before you took the stand at

DeSa1 D. Ramsey - direct 1 38 the trial? 2 This is correct. 3 And just so the record is clear, the testimony I read from was on February 29, 1968, and further just for 5 ease in placing the dates the record will indicate that Mr. 6 7 Ramsey's direct testimony commenced on the afternoon of 8 February 28, 1968, at page 223. 9 When you had your initial discussion with Mr. 10 Domanti about the events that took place in your life on the 11 day of this alleged robbery, did he say anything to you 12 about whether or not he planned to call your wife, Mrs. 13 Ramsey, as a witness? 14 Yes, he said something to me as regards that. 15 What did he say? 11 16 He told me that my wife would not be needed as a 17 witness. 18 In other words, he told you that when you had 19 the first conference about the facts of your defense to the 20 robbery? 21 1. Yes. 22 Did he tell you why your wife would not be needed? 1) 23 No, he did not. 24 Did you question him at all about this? 25 No, I did not.

D. Ramsey - direct De Sal 39 1 Did there ever come a time after that when you 2 3 again had a discussion with Mr. Domanti about whether or not your wife Barbara Ramsey would be called as a witness as part of your defense at the trial? 5 6 Not to my recollection. 7 Q You didn't discuss that subject with him after that? 8 A Right, not to my recollection. 9 At the initial discussion about the robbery that 10 you had with Domanti, did he tell you the names of the people 11 who were involved from the Project Liquor Store? 12 Yes, he did. 13 Do you recall what their names were? 14 One was a Jose Roman and another, I believe, was 15 a Mr. Epstein, maybe William Epstein. The last name is 16 Epstein. Maybe the first one is William. 17 Is Roman the man you referred to a moment ago that 18 you to'd Domanti you had had a fight with, and that James 19 Reed would testify to that fight? 20 Yes, a fist fight. 21 Did Mr. Domanti ever tell you that he wasn't going 22 to call your wife as a witness because she wouldn't be a good 23 witness or simply that he didn't want to call her period? 24 Domanti told me that my wife would not be needed 25 as a witness.

1	DeSal D. Ramsey - direct 40
2	Q And that was the extent of the discussion?
3	A That was the extent of it, right.
4	Q Did Domanti at any time say to you that he was
5	going to try to talk to Epstein and Roman to find out what
6	they lad to say about the robbery?
7	A No, he didn't tell me that he himself would try
8	to talk to Epstein or Roman.
9	Q What did he say?
10	A He told me he would have some of his friends
11	one of his friends talk to Roman and another talk to Epstein
12	He preferred a Latino friend of his to speak with Roman
13	being thec Roman is a Puerto Rican or of Latin extraction,
14	and that he would have another fellow speak with Epstein,
15	one more in his ethnic background.
. 16	Did he ever tell you whether or not these friends
17	of his did in fact speak with either Epstein or Roman or
18 .	both of them?
19	A He tell me that a friend spoke along with Roman
20	but trat Roman did not want to cooperate.
21	Q And what about Epstein?
22	A Epstein wasn't communicated with, so he alleged
23	to me.
24	Q I'm sorry, I didn't hear your answer.
25	He didn't make communication with Epstein. No

DeSa1 D. Ramsey - direct 41 1 one spoke to Epstein. 2 He told you they were not able to speak with 3 Epstein? 4 Right. MR. SPIEGEL: Are we talking here about comments 6 that M:. Domanti made or some third party that Mr. Domanti 7 8 talked to? 9 MR. LEVIT: We are talking about discussions that 10 Mr. Ramsey had with Mr. Domanti, and he testified, I believe, 11 that Domanti did testify they made contact through a third 12 party, Mr. Roman, but no contact by Domanti or by a third 13 party was placed with Mr. Epstein. That's my understanding 14 of what he testified to. 15 Is that correct, is that your testimony? 16 Yes. 17 MR. LEVIT: Does that clarify your question, Mr. 18 Spiege'? 19 MR. SPIEGEL: Yes. 20 In sum toto how many conferences, either at the 21 Tombs or at 100 Centre Street, would you say you had with Mr. 22 Domant' between early October 1967 and the conclusion of 23 your robbery trial on March 1, 1968? 24 Unexaggerated -- use your best understanding and 25 recollection. Don't exaggerate anything.

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1	DeSa1	D. Ramsey - direct	42
2	A	Unexaggerated, about 25, 30 times.	
3	Q	That you talked with him?	
4	A	Yes.	
5	Q	In person?	
6	A	Domanti, yes.	
7	Q	Were those concerned primarily with your ro	bbery
8	case or wit	h other matters?	
9	Α	With other matters.	
10	Q	What were they concerned with principally?	
11	A	They were concerned along with the homicide	cases
12	along with	the alleged rape case, and along with this	allege
13	robbery cas	e.	
14	· Q	Did you ever have discussions that only inve	olved
15	the robbery	or were the discussions generally about the	2
16	'homiciće an	d onlyperipherallyabout the robbery case?	
17	Α,	Well, when we neared the time for the robber	ry
18	trial, the	discussions were limited more to the robbery	,.
19	Prior to th	at the discussions were geared more in the o	irec-
20	tion of the	alleged rape. Prior to that it was geared	more
21	in the dire	ction of the homicides.	
22	Q	Was there any particular period during Octob	er,
23	beginning o	f March when the largest number of these vis	its
24	took place	or were they strung out over the entire peri	od?
25		There was a period when there was a larger n	umber

DeSa1 D. Ramsey - direct 43 of the visits occurring, yes. 2 Q When was that? 3 This was the period between the initial visit of 4 October 11 -- I believe it was the 11th -- and I would say 5 6 the middle of December, coming towards the end part of the 7 December. 8 Q What happened after that? Then the visits started to become stagnant, almost 10 to zero. 11 Did you become concerned about the fact that you 12 weren't seeing your counsel as much? 13 Yes. I was becoming quite concerned. A 14 Did you do anything about it? Q 15 Well, I douldn't do nothing about it. I just had 16 my wife constantly contact him and leave messages for him 17 over a tape that, what you call on the phone, that take down 18 the tape message for him. She would call him again in the 19 winter time at his office. A couple of times she even called 20 him at his mother's house in Brooklyn. 21 Q Did he then begin to see you more frequently? 22 No. 23 Did he ever tell you why it was that his visits 24 were cut down in frequency? 25 Yes. '

All it really amounted to was that what day we would

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robbery case?

45 D. Ramsey - direct DeSa1 1 be going to trial; did he receive the checks, because he 2 was supposed to receive the checks which were supposed to be 3 exhibits at the trial. He tell me no, he didn't receive them and what not. That's the utmost of the conversation, 5 just the checks and what date would we be going to trial. 6 Did he say it would be necessary for you to 7 testify, at least to a limited extent of identifying the 8 9 checks? He never said this prior to maybe two minutes --10 within five minutes before I took the stand to testify to 11 12 the checks. Did he tell you how he was obtaining the checks 13 Q 14 if it was he in fact who was obtaining them? 15 He told me how he was obtaining the checks, yes. 16 How was that? 17 He was obtaining the checks indirectly through a 18 former employer of mine, one Barrington Dunbar, who issued 19 the checks to me, Mobilization for Youth. 20 Did you or your wife try to assist Mr. Domanti in 21 any way in getting those checks or did he take the responsi-22 bility himself for getting them? 23 Domanti took the responsibility himself because he 24 was supposed to receive them through -- there is a branch of 25 M.F.Y. that's called Lena, 119 Suffolk Street, I believe.

Yes.

1	DeSal D. Ramsey - direct 47
2	Q Did you ever see Mr. Leek again from that time
3	until your robbery conviction was obtained by the people?
4	A To the best of my recollection that was the very
5	last time I have seen Randolph Leek.
6	Q Did Mr. Domanti at any time between the plea to
7	the indictment and the trial, ever tell you the status of
8	Mr. Leek's case and whether he had made contact with Mr.
9	Leek's attorney?
10	A He never discussed Leek's case with me. He never
11	mentioned Randolph Leek to me.
12	Q Did he ever tell you in late December 1967 Mr.
13	Leek had made a motion for what is known as a Wade hearing
14	to suppress identification testimony?
15	A No, he never mentioned Leek to me.
16	· · Q When is the first time that you learned that not
17	only had Mr. Leek made a motion for a Wade hearing but that
18	in fact his case was ultimately dismissed by the People of the
19,	State of New York on their own motion?
20	A The first time I have learned of this was when
21	counsel send me papers developed in my behalf to this effect.
22	Q When you refer to counsel, are you referring to me
23	A Yes, I am.
24	Q In other words, last summer was the first time you
۵	learned that in fact Mr. Leek's case was dismissed by the

1 DeSa1 D. Ramsey - direct 48 2 people? 3 A Yes. Did there come a time when you dismissed Mr. Q 5 Domanti as your counsel in the homicide case? 6 A Yes. 7 Q And when was that? 8 I believe the date was the 24th -- I believe it 9 was the 24th of March, 1969. 10 And could you tell us very briefly the circum-Q 11 stances leading up to your dismissing lir. Domanti as your 12 counsel in that case? 13 Yes. March 29 -- I believe March 29, 1968, I was 14 sentenced on this alleged armed robbery case. The indefinite 15 sentence of eight years four months to 25 years. Now, 16 Domant: assured me in utmost sincerity that he would file a 17 notice of appeal for me, that I may have access to a direct 18 appeal. He never filed this. 19 It wasn't until months afterwards that I was 20 speaking with -- at the time I was incarcerated in State 21 Prison, I was speaking with fellow prisoners there and they 22 was asking me as regards my filing of notice of appeal. I 23 said, nc, my attorney is going to file the notice of appeal. 24 They ask me did I receive a copy of it. I say no. They say 25 write your attorney as regards it.

DeSa1

D. Ramsey- direct

So, I contact my wife, I wrote my wife and she went over to speak along with Domanti. Now, my mother went in addition to my wife to speak along with Domanti at his place of business, his office. Now, Domanti assured my wife and mother that he did in fact file a notice of appeal for me. He showed my wife a copy of someone else's appeal and said that this is what it coks like.

Now, she came and told me this and in addition to this Domanti was supposed to have come up to visit me at Green Haven Correctional Facility, which is just an hour's drive out of New York. Now, the man, he never arrived, and again I send my wife back to him, at which time I don't believe she made contact along with him because my subsequent reaction was to write to the judge.

I believe his name was Judge Boutine at 27 Madison Avenue, Appellate Division, inquiring as regards the notice of appeal because I couldn't get any positive information on it.

Q I gather, as the record indicates in this case, eventually with respect to perfecting that appeal you retained Harold Rothwax and that you were in fact allowed to proceed with an appeal. Is that correct?

A Yes, but prior to proceeding along with the appeal I came down for the homicide prosecution, at which time I

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informed Domanti that you are not representing me. You didn't give me the representation. You tried to hang me up by not filing the notice of appeal. You are not competent, et cetera. A total lack of interest. This is what led up to my firing Domanti from the homicide cases, from all proceedings.

Immediately thereafter Harold Rothwax interceded into this robbery case and filed a coram nobis for me, yes.

Q You got other counsel other than Harold Rothwax to handle the homicide case?

A Yes.

MR. LEVIT: I don't think I have any further questions, your Honor. I would like to check for a moment with my co-counsel.

(Pause.)

MR. LEVIT: I have no further questions at this time, your Honor.

CROSS EXAMINATION BY MR. SPIEGEL:

Q Mr. Ramsey, at the time of your arrest did you have a steady job?

A No.

Q Did you in fact have any job?

A I had no job.

Q For how long had you been unemployed at the time

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1	DeSal D. Ramsey - cross 51
2	of your arrest?
3	A About a month.
4	Q Mr. Ramsey, do you have any other convictions
5	besides the one that's at issue here, the robbery conviction,
6	besides the murder conviction for which you are also serving
7	time?
8	A No, I have no other convictions other than the
9	homicide conviction, murder conviction as you say.
10	Q Did you enter a guilty plea in 1961 to a crime in
11	New York County, Mr. Ramsey?
12	MR. LEVIT: I think I am going to object to that
13	because I think at that time, I believe if my addition is
14	right, Mr. Ramsey was a juvenile. I don't believe
15	THE COURT: He said he is 33.
16	MR. LEVIT: That's 13 years ago. Okay, I stand
17	corrected. I apologize for that.
18	THE COURT: All right.
19	Q Could you answer my question, please?
20	A Restate your question, please.
21	Q Did you enter a guilty plea in the New York State
22	courts in 1961?
23	A Yes.
24	Q And in 1964 were you involved
25	THE COURT: Well, is that all you are going to

1	DeSal D. Ramsey - cross 52
2	ask about that, guilty plea to what, a traffic violation?
3	MR. SPIEGEL: Your Honor, the difficulty I have
4	at this point is that the rap sheet on Mr. Ramsey
5	THE COURT: Why don't you ask him. He's here.
6	MR. SPIEGEL: We have a rap sheet we are going to
7	submit in evidence but unfortunately it was lost in the
8	jumble of papers.
9	THE COURT: I know, but why don't you ask Mr.
10	Ramsey what he pleaded guilty to now that he told you the
11	answer is yes?
12	Q What did you plead guilty to in 1961, Mr. Ramsey?
13	A Attempted grand larceny in the second degree.
14	Q In 1964 were you involved in a rape charge while
15	you were out on parole?
16	A No. Statutory rape.
17	Q Statutory rape?
18	A Yes, sir.
19	Q Did you plead guilty to that charge?
20	A Yes. The law demanded it.
21	MR. LEVIT: I couldn't hear the last part of the
22	answer.
23	THE WITNESS: The law demanded I plead guilty to
24	statutory rape.
25	You pleaded guilty?

1	DeSal D. Ramsey - cross 54
2	Did you want to complete your answer?
3	THE WITNESS: Yes.
4	MR. LEVIT: I think he is entitled to continue
5	his answer.
6	THE COURT: I don't think it's very major but, go
7	ahead, complete your answer.
8	THE WITNESS: I was living at 169 Avenue B, which
9	is that distance from Project Liquor Shop for maybe about a
10	year and a half, and I was living almost directly across the
. 11	street from Project Liquor Shop since 1949.
12	Q Mr. Ramsey, did you frequent the Project Liquor
13	Store on any occasion?
14	A. Yes.
15	Q About how many times would you say you frequented
16	the Project Liquor Store say in the month before the crime
17	took place?
18	A Once, twice.
19	Q Did you visit the Project Liquor Store at any
20	times prior to that?
21	A Yes.
22	O And were you known in the neighborhood?
23	A Definitely.
24	Q Mr. Ramsey, I believe you stated that you met Mr.
25	Domant, your counsel, in jail; is that correct?

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1	DeSal D. Ramsey - cross 55
2	A Yes.
3	Q Did you know him at all prior to that time?
4	A No, I did not.
5	Q Did you know of him?
6	A No, I did not.
7	Q Did any of your friends contact him or know of
8	him prior to that?
9	A Not to my knowledge.
10	Q You mean to say that this man came to your jail
11	cell and said, I'm Mr. Domanti, I would like to represent you,
12	is that your testimony as to what happened?
13	A No, it's not.
14	Q Mr. Ramsey, what in fact did happen? How did you
15	come to learn of Mr. Domanti?
16	A I was called downstairs to counsel room. He
17	didn't come to the jail cell. I was called down to counsel
19	room a: the Men's House of Detention.
20	Q That was the first time you met Mr. Domanti or
21	heard of him?
22	A Yes.
23	Q Nobody had mentioned his name to you before that?
24	A Not to me, right.
25	Q You said that Mr. Domanti visited you approximately
	25 to 30 times prior to the actual trial; is that correct?

1	DeSal D. Ramsey - cross 56
2	A That's correct.
3	Q I believe you also stated that you saw Mr. Domanti
4	once in January of 1967 and several times in February. Is
5	that correct?
6	A Well, depends on what you sum up to be several.
7	What's your count of several, please?
8	Q I am more interested in your count of several, Mr.
9	Ramsey, because it was your word. What is your definition
10	of several?
11	A Twice.
12	Q When were those times that you saw Mr. Domanti in
13	February?
14	MR. LEVIT: You understand these questions are
15 16	directed to the period before the trial started, because
17	obviously he saw him every day when the trial started in the
18	courtroom. I take it you are dealing with the period before
19	the trial started.
20	MR. SPIEGEL: Quite definitely.
21	Q I am dealing with the period before the trial.
22	How many times did you see him in February prior to the trial?
23	A About twice I seen him in February.
24	Q What dates?
25	A I don't remember what dates.
	Q But you are certain that you saw him twice?

1	DeSal D. Ramsey - cross 57
2	A I'm not certain twice. It would have been three
3	times. I might have been once.
4	Q You used the word several. I'm just repeating
5	your word.
6	Now, Mr. Ramsey, I believe you stated that you
7	were visited by three friends on the night of the crime; is
8	that correct?
9	A That's incorrect.
10	Q I am talking about the three friends in September,
11	1967.
12	A I was visited that afternoon, not the night. Since
13	about noon, noon time. They didn't come at night.
14	Q Well, how long were these friends with you that
15	day?
16	A All afternoon, one up to midnight even.
17	Q And could you state for the record what the names
18	of these three friends were?
19	A Yes. We have one Richard Curtis, also known as
20	Kibogoyo; we have one Jones; I don't recollect his first name
21	but he is also known as Mjuaji. We have one George Aponte
22	that is also known as Mfariji.
23	Q Did you give their names to Mr. Domanti?
24	A Yes.
25	I am going to read to you some testimony from your

DeSa1 D. Ramsey - cross 58 1 trial. I would like you to pay careful attention to it. 2 Perhaps you could explain something in it that seems to be 3 puzzling to me. Excuse me? 5 6 I am reading from page 128. The question which is asked to you by your counsel is: 7 "0 Do you remember what you were doing that 9 night? 10 "'A I was doing generally what I do when I have 11 company. 12 "Q Did you have company that night? 13 "A Yes. 16 "0 Do you remember who? 15 "A Yes. 16 "Q Could you tell us who? 17 I had a fellow there by the name of Richard 18 Cartis. I had another fellow there by the name of 19 Mjuaji. Then there is another fellow there whose name 20 is blurred to my mind." 21 You further allege in your testimony on cross 22 examination you essentially repeat what is said there, that 23 you renembered only two of their names. How come you now 24 remember three of their names? 25 Right, now when I start to correct that, you didn't

1	DeSal D. Ramsey - cross 59
2	allow me the opportunity. I did excuse myself but it wasn't
3	acknowledged.
1	Q Well, I'm not sure I understand. You just
5	testified to me that you gave your counsel, Mr. Domanti,
6	three names of three people and you just repeated their names.
7	A But it was a later period that I learned the name
8	of the third party, Mjuaji.
. 9	Q The testimony I read you is from your trial.
10	A I asked for an excuse but it wasn't acknowledged.
11	THE COURT: Well, will you explain now?
12	THE WITNESS: There came a time later when the
13	name of the third party or the first party, whichever order
14	you want to put them in, when Mjuaji was brought to my
15	attention. Prior to that I didn't know the man.
16	THE COURT: Didn't you say here that you have
17	given the name to your lawyer, Domanti?
18	THE WITNESS: I gave the name Richard Curtis to
19	Domanti, I gave the name Mjuaji to Domanti. Now, the name
20	George Aponte, also known as Mfariji came up later. I believe
21	it was given to Domanti by one of the other fellows.
22	THE COURT: Didn't you testify here this morning
23	that you had given the three names to Domanti before your
24	trial and that he said he would go see them?
. 25	THE WITNESS: I am inclined to believe that I

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testified that I gave three names to Domanti, yes, but I gave two names to Damonti and from the two names I gave the third party came up. I didn't know the third party. He was a friend of the two that came.

The testimony you just gave in court was correct, Q that three names were given to Mr. Domanti?

Two names were given to Domanti. Now, I believe Domanti was provided with the third name, George Aponte, also known as Mfariji, through Kibogoyo or Mjuaji.

> MR. LEVIT: There is testimony in the record --THE COURT: Don't tell us what testimony there is.

MR. LEVIT: I mean today.

THE COURT: Don't tell us what testimony there is. If you have objections to questions, you may pose them.

Go ahead, Mr. Spiegel.

Referring back to the record again, in the record the portion I just read you, you state specifically that you gave two names to your counsel and that you could not recall the name of the third person. I'm not sure I completely understand your testimony. You are still stating that you knew there were three people in your apartment. Is that Correct?

Just a moment. Understand this. Richard Curtis,

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25

14th Street.

Curtis was the last person to leave?

1	DeSal D. Ramsey - cross 62
2	A Yes.
3	Q Approximately what time did Curtis leave?
4	A Around noon time excuse me, midnight, around
5	midnight.
6	Q And when did the first gentleman leave, approxi-
7	mately what time?
8	A About a half hour after he arrived.
9	Q So it would be about 12:45 in the afternoon?
10	A Okay.
11	Q When did the second gentleman leave?
12	A No, he didn't leave around dinner time. It must
13	have been around 11 o'clock, about an hour or so before I
14	walked Curtis to the bus stop. So around maybe 11 o'clock,
15	10:30, someplace around there. It wasn't as early as dinner
16	time, right.
17	Q So the second gentleman left at 10:30 in the even-
18	ing; is that correct?
19	A Around there. The best of my recollection I'm
20	giving you now. I'm not giving you what I definitely know to
21	be actual.
22	Q And it's your testimony in substance that the three
23	men left your apartment at different times. Is that correct?
24	A Yes.
25	Mr. Ramsey, I'm going to read to you again from

1	DeSal D. Ramsey - cross 63
2	your testimony at trial. I would like you to pay attention.
3	This is from page 166 of the record. The question is:
4	"Q Did Mr. Curtis and the other man leave your
5	apartment together?
6	"A When we departed?
7	"Q On September 22?
8	"A When we departed?
9	"Q I don't know. At any time did they leave the
10	apactment together?
11	"A Yes, we all left together.
12	"Q You all left together?
13	"A Yes.
14	"Q At what time?
15	"A It was, I would say, after 12 o'clock.
16	"Q At night?
17	"A At night."
18	As I understand it now you are saying the three
19	of them left at different time. Is that correct, Mr. Ramsey?
20	A Give me a chance to think on that, it's about six
21	years εκο.
22	Q The record reflects
23	THE COURT: Let him think about it and explain.
24	A The first man who went that I didn't know left
25	about a half hour after arriving. Minail Jones, he left he-

DeSa1 D. Ramsey - cross 64 fore Kihogoyo and I left. Kibogoyo and I -- Mjuaji went to 2 Brooklyn. He went before Kibogoyo and I did. Kibogoyo 3 left around midnight. I took him to 14th Street bus stop. 4 5 Q Was it testimony at the trial as to the time these three men left incorrect? 6 7 Yes. Any other portions at your trial incorrect? 9 Well, I don't know the full of my testimony at 10 the trial. But if I can have an opportunity to reflect upon it I would know if it is correct or not. 11 12 Mr. Ramsey, did you remain in your apartment during 13 this entire period of time between the time 12 noon, when the 14 first of these gentlemen came over, until midnight? 15 I remained in the building. There is a couple of 16 times I took the dog -- I had a dog -- took the dog to the 17 roof. 18 Q What type of dog was that? 19 Doberman pinscher. 20 Q Anything distinctive about this dog? 21 Oh, yes, quite. 22 What was that? 23 The animal was uncropped. It had long ears and 24 long tail, which is unusual for the Doberman pinschers. It is 25 fashionable to crop the ears and tails on the Dobermans.

1	DeSal D. Ramsey - cross 65
2	Q And you say you took this animal out. Is that
3	correct?
4	A To the roof.
5	Q To the roof?
6	A Yes.
7	Q How many times did you take him to the roof?
8	A About two times.
9	Q Those were the only times that you were out of
10	your apartment during that period of time?
11	A Right.
12	Q What did you do during that period of time between
13	12 noon and 12 midnight, could you describe this for me
14	briefly?
15	A Yes. I drummed when I say drummed, I mean I
16	beat the drum, hand drum. We listened to music, drank. Maybe
17	even watch a program or two on television.
18	Q How long did you play the drums?
19	A Well, if they arrived around noon time the drums
20	was played periodically throughout the whole while.
21	Q You say you played your drums for three hours,
22	for four hours, how long did you play them?
23	A Maybe if you want to set a time, say 12:15 for
24	arrival, and after talking for a little while I might have
25	started playing drums at about one o'clock. If we start
THE RESERVE AND THE PARTY OF TH	

1	DeSal D. Ramsey - cross 66
2	playing at one o'clock, the rhythms might have continued
3	until maybe 2:15, 2:30, 2:45. Maybe we take a rest at that
4	period, a half hour rest or so. Maybe played for another
5	coupld of hours. Generally when I play, I play for two hours
6	nonstop, three hours nonstop. Polly rhythm.
7	Q I'm sorry, I'm not familiar with the term.
8	A Polly rhythm?
9	Q How long would you say you played the drums, that's
10	the point I am interested in.
11	A That's it, periodically throughout the whole time.
12	Q Well, an estimate of time?
13	A Okay, so from 12 to 12 is six hours. Take off an
14	hour and a half. I played for about four and a half hours.
15	Q Mr. Ramsey, again I refer you to the testimony of
16	the trial, page 170, a question at the bottom of the page,
17	it is ssked:
18	"Q How much time would you say you were drumming
19	all together, you and your guests?
20	"A I would say we drummed a good eight hours
21	periodically on and off."
 22	Is that testimony correct or is this testimony now
23	that you gave us correct?
24	A Well, the one I'm giving you now would be more
25	correct than that one. But if you read that again, please.

25

D. Ramsey - cross

67

Q The question:

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"0 How much time would you say you were drumming' trzether, you and your guests?

I would say we drummed a good eight hours periodically on and off."

So what is your testimony, is this correct now, this testimony I'm reading to you?

It seems we have an additional two hours there.

You just testified that you played the drums for four to five hours, Mr. Ramsey. Now you are telling me that you played it for eight hours.

You testified I played for four to five hours. I'm giving you an approximation. I'm not giving you any direct amount of time. I'm giving you an approximation. You don't want to accept periodically.

Which approximation is the correct approximation, four to five hour approximation or the eight hour approximation?

Well, to the best of my recollection I left my home around 12 o'clock midnight, walking Kibogoyo to the bus stop. They arrived around noon time. It is impossible from noon to 12 to supercede six hours. The testimony I'm giving you now would be more accurate than the one from before.

In other words, the testimony you gave at the

	1	DeSal D. Ramsey - cross 68
	2	trial is incorrect?
	3	A It probably was on the spur of the moment utterance
	4	and it would have been more incorrect than this one is, yes.
	5	Q Mr. Ramsey, I believe that at your trial you had
	6	counsel named Mr. Joseph Domanti. Is that correct?
	7	A Yes.
	8	Q Did you tell Mr. Domanti the details of this story
	9	about the events of September 22, 1967, did you tell him
	10	these details that you just told me?
	11	A Yes.
	12	Q Did you supply Mr. Domanti with the addresses of
	13	the two friends that you now claim you knew?
	14	A No.
	15	Q You didn't supply him with the addresses?
	- 16	A You said two friends. I supplied him with the
	17	approximate address of Kibogoyo, which lessens two to one.
	18	That's an approximation which even cuts the one to a half a
	19	one.
	20	Q You supplied him with an approximate address?
	21	A Yes.
	22	Q What is an approximate address?
•	23	A 180th Street and Arthur Avenue. I didn't remember
	24	the exact number, something like 22, 44, something in that
	25	order-which gives him an approximation.

1	DeSal	D. Ramsey	- cross	69
2	Q The o	her two partie	s whose name	you have just
3	mentioned, you di	dn't supply hi	m with the ad	dresses. Is that
4	correct?			
5	A That's	correct.		
6	Q Did yo	ou supply him w	ith the phone	number of that
7 .	first person?			
8	A No.			
9	Q Do you	recall if Mr.	Domanti aske	d you for the
10	addresses of eitl	ner one or all	three of thes	e persons?
11	A Sure	ne asked me for	the addresse	s of them, but
12	I was unable to	provide them.		
13	Q Did he	ask you for p	hone numbers	of these three
14	people?			
15	A If I	onew them, righ	t.	
16	Q Mr. R	msey, I believ	e you stated	before that your
17	counsel told you	that you would	testify only	as to the checks
18	you cashed in the	liquor store.	Is that cor	rect?
19	A No, th	nat's not corre	ct.	
20	MR. LI	EVIT: Excuse m	e, what time	frame are we
21	referring to? I	think the ques	tion is ambig	uous as presently
22	phrased.	•		
23	THE CO	OURT: Be more	specific as t	o time, Mr.
24	Spiege:.			
25	Mr. R	msev. did ther	e come a time	at which your

1	DeSal D. Ramsey - cross 70
2	counsel told you that you would testify at the trial?
3	A Yes, there came a time.
4	Q And when was that time?
5	A Approximately within five minutes of the time I
6	did testify.
7	Q Approximately five minutes within the time you
8	did testify, that's your testimony?
9	A Yes.
10	Q And what did your counsel tell you that you would
11	testify about?
12	A He told me I would testify to the identity of the
13	checks.
14	Q Did you discuss any other details that you might
15	testify about with your counsel?
16	A I discussed no details with counsel.
17	Q Only the checks?
18	A I didn't even discuss that with counsel.
19	Q You didn't discuss the checks either?
20	A I didn't discuss nothing as regards to what I
21	would testify to. Counsel informed me that I would testify to
22	the checks. I says, "All right."
23	He came from my bench up to the witness stand and
24 25	testif ed about the checks. There was zero discussion
۵	between me and counsel as regards my testimony about the checks.

1	DeSal D. Ramsey - cross 71
2	Q Did you discuss the case at all with your counsel?
3	A Of course.
4	Q And were you familiar with the case?
5	MR. LEVIT: Objection again, your Honor, as to
6	time. I don't know what time the question is directed to.
7	THE COURT: No, that objection is overruled.
8	Q Did you discuss the case with your counsel?
9	A What do you mean, when I took
10	Q To be specific, did you discuss the case from the
11	first point when you began meeting with him until the time
12	of the trial, did you discuss the case with him?
13	A I discussed the case along with counsel and counsel
14	informed me that there was such a case, yes.
15	Q When was the last time that you discussed the case
16	with your counsel?
17	MR. LEVIT: Objection again, your Honor, as to
18	the outside limit. Is he talking about prior to trial?
19	THE COURT: Yes, be more specific on that, Mr. Spiegel
20	Q Prior to the trial when is the last time that you
21	discussed the case with your counsel?
22	A Just so that I can understand exactly what you are
23	saying, when you say discussed, how involved am I to conceive
24	that?
25	I mean when was the last time prior to the trial

DeSa1

that you went over the details of the crimes with which you

were charged?

A December 1967.

Q At no point after that in January or February prior to the trial did you discuss the case with your counsel?

A Actually the depth of what you are conceiving as discussed have the major concept of discuss differs from mine. Naturally the man mentioned the case, we were going to trial on the case. Naturally he mentioned the case but what he mentioned about the case was mainly that the checks did not arrive and that James Reed would be called as a witness, that Kibogoyo, something about Kibogoyo to be used as a witness. He was to arrive along with Mjuaji and the other fellow I didn't know at the time, who I later learned later was Mfariji or Aponte. Mainly it was the checks and the witness as opposed to what I mean as a discussion.

Q When I use the word discussion, at the risk of getting involved in semantics, I'm referring to the last time that you discussed the events that occurred on the night of September 22, 1967, which was the night that the robbery of the liquor store took place.

Now, when was the last time that you discussed those details with your counsel?

Sometimes in December 1967.

1	DeSal	D. Ramsey - cross	73
2	Q	Mr. Ramsey, did you wear anything in particular	lar
3	during the	e course of the trial?	
4	A	What do you mean wear?	
5	Q	Any particular clothing during the course of	the
6	trial.		
7	A	I think I know what you are geared towards.	Yes,
8	I wore 1	Fila, a religious cap. Other than the clothin	g I
9	wore was	symbolic to what I'm wearing now, sport jacket	
10	pants and	shirt.	
11	Q	Why did you wear the cap?	
12	A	It was a representation of my ideology.	
13	Q	Your what?	
14	A	A representation of my ideology.	
15	Q	And what was your ideology?	
16	· · A	It centered around Orisha Vudu.	
17	Q	What is that?	
18	A	Vudu.	
19	Q	Vudu?	
20	A	Yes, paganism.	
21	Q	Is that a religion?	
22	Α	Paganism.	
23	Q	By paganism you mean religion?	
24	A	Yes.	
25	Q	Do you always wear this cap?	

1	DeSal D. Ramsey - cross 74
2	A Yes, I wore it quite extensively.
3	Q You wore it on the street as well?
4	A Definitely.
5	Q Do you recall your counsel mentioning that he
6	thought wearing the cap during the course of the trial might
7	cause a problem?
8	A Of course not. In fact I had permission from the
9	judge to wear the cap in the court. The judge himself granted
10	permission for this.
11	Q Mr. Ramsey, you had a co-defendant that was
12	involved in this crime. Would you state his name, please?
13	A There was a co-defendant. I don't know about my
14	having a co-defendant. There was a co-defendant involved in
15	the cr.me, one Randolph Leek. Is this the person you are
16	thinking in terms of?
17	Q I believe you told us before that the indictment
18	against him was dismissed. Is that correct?
19	A Say that again, please?
20	Q I believe you just stated before that your present
21	counses told you this past summer that the indictment against
22	your co-defendant, Mr. Randolph Leek, was dismissed, in con-
23	nection with this robbery crime. Is that correct?
24	A Yes, I stated the indictment against the
25	co-defendant, right, was dismissed but not my co-defendant,

1	DeSal D. Ramsey - cross 75
2	the co-defendant they said was mine. I didn't plead guilty
3	in this case.
4	Q Did your present counsel ever tell you why the
5	indictment against this Randolph Leek was ever dismissed or
6	was dismissed? Did he state to you the reasons why?
7	A Yes, he showed me in writing.
8	Q What were those reasons?
9	A The reason was due to a conflict in identification.
10	Q Between whom?
11	A Between the two clerks and the person in question,
12	the defendant in question.
13	Q Do you recall their names?
14	A The two clerks?
15	Q Yes.
16	A Yes. One Jose Roman and another William Epstein.
17	Q Did these two clerks testify at your trial?
18	A Yes, they did.
19	MR. SPIEGEL: I have no further questions.
20	MR. LEVIT: Your Honor, just one or two very brief
21	things. I believe a couple of them wouldn't be necessary
22	except for the fact I gather Mr. Spiegel does not have Mr.
23	Ramsey's yellow sheet. I would like to have the record clear
24	as to those first preliminary questions that were asked
25	about prior convictions.

1	DeSal D. Ramsey - redirect 76
2	REDIRECT BY MR. LEVIT:
3	Q I believe you testified, Mr. Ramsey, in 1961 you
4	pleased guilty to attempted grand larceny in the third degre
5	Is that correct?
6	A Second degree.
7	Q Will you just tell us briefly what was involved i
8	that case and what sentence, if any, you received?
9	A I received indefinite three years on that
10	sentence.
11	Q What was the crime you were charged with in terms
12	of the facts?
13	A Well, a robbery, a robbery.
14	Q And the other one you referred to, I believe, was
15	a plea of guilty on statutory rape. Did you receive a
16	sentence in that case?
17	A Yes.
18	Q What was that?
19	A I believe the sentence was one year.
20	Q Did you actually serve time on that sentence?
21	A I served the one year.
22	Q Where was that?
23	A I served the one year between the Manhattan House
24	of Detention prior to receiving the sentence, and on Riker's
25	Island.

77 D. Ramsey - redirect DeSa1 1 That was a misdemeanor conviction? Q 2 Yes. 3 During the course of your cross examination there was some discussion back and forth between you and Mr. Spiegel 5 as to the names that you gave to Mr. Domanti when you met with 6 him at the Men's House of Detention. Do I understand that 7 testimony as well as your testimony on direct examination 8 to mean that you did give Mr. Domanti the names and addresses 9 of two people; namely, James Reed and Richard Curtis. Is 10 that correct? 11 12 Yes. Is it also your testimony that you, in addition 13 to naming Reed and Curtis and giving their names and addresses, 14 that you gave the names of William Jones and the other fallow, 15 you at that time didn't know his name, but told Domanti he 16 could get the name and address from Mr. Curtis? 17 18 Yes, that's correct. Did you also tell Mr. Domanti that you believed 19 Q 20 that - . MR. SPIEGEL: Your Honor, I'm not quite sure I 21 22 unders and that. How many addresses did Mr. Ramsey give his 23 counsel. This is getting very confusing. THE COURT: I don't think the leading is desirable 24 25 on this sensitive area and I'm not going to give much weight

78 D. Ramsey - redirect De Sal 1 to this testimony anyhow, Mr. Levit. At this point you are 2 testifying rather than the petitioner. 3 MR. LEVIT: I do believe earlier he testified --THE COURT: Whatever happened this morning happened 5 but you are not making it any better. If what you are doing 6 is summarizing you would be best advised to leave it alone. 7 MR. LEVIT: I have no further questions of the 8 9 witness. 10 THE COURT: Anything else? MR. SPIEGEL: Just two questions, your Honor. 11 12 RECROSS BY MR. SPIEGEL: Who is this gentleman, Mr. Reed? 13 Mr. Reed is an additional party, a witness, one 14 that witnessed the fist fight that I had with Jose Roman. 15 When you asked me as regards the addresses that I gave to 16 Domant', you were speaking in terms of Jones, Williams -- I 17 18 mean Jones, Kibogoyo, which is Curtis, and Aponte. When I told you one address out of that, I was giving you the one 19 20 address of Richard Curtis. 21 In addition to that, now separated from those 22 three which were at my place of residence, there was a James 23 Reed. 24 When was this fist fight with Mr. Roman, when did Q

25

it take place?

1	DeSal	D. Ramsey - recross 79
2	A	Right now I don't remember exactly but it must
3	have beer	about a year or so earlier.
4	Q	A year before the alleged crimes?
5	A	I'm estimating on it. It is a wild estimate right
6	now.	
7	Q	This fist fight took place a year before September
8	22, 1907	approximately?
9	A	Approximately, yes.
10	Q	Was your wife present during the time between 12
11	noon and	12 midnight on September 22, 1967?
12	A	Yes, she was.
13	Q	For approximately how long?
14	A	Throughout the complete time.
15	Q	12 hours complete?
16	· . A	Throughout the complete. Never lacking one moment
17	absence.	
18		MR. SPIEGEL: Thank you.
19	Townson in the	THE COURT: Anything else?
20		All right, Mr. Ramsey.
21		(Witness excused.)
22		THE COURT: Does anybody want a recess at this
23	point?	
24	17	MR. LEVIT: No, your Honor.
25	1. + . 4/ in 1	THE COURT: Then let's proceed.

1	De Sal		D. Ramsey			80
2		MR. LEVIT:	Could we	have Mrs.	Ramsey, who	I
3	believe is	in the witn	ess room,	called as	the next wi	ness?
4		THE COURT:	All righ	t.		
5	BARBA	RA RAN	SEY,	called as	a witness on	behalf
6	of th	ne petitione	r, affirms	and testi	fies as foll	ows:
7	DIRECT EX	AMINATION BY	MRS. MC M	EEN:		
8	Q	Are you the	e present	wife of Do	onald Ramsey?	1
9	A	Yes.				
10	Q	When were	you marrie	d?		
11	A	March 5, 1	966.			
12	Q	So you wer	e married	and livin	g with Mr. Ra	msey in
13	September	of 1967?				
14	A	Yes.				
15	Q	How old ar	e you now	?		
16	Α	27.				
17	Q	So you wer	e approxi	mately 21	years old in	1967?
18	A	Yes.				
19	Q	What is yo	our educat	ional back	ground?	
20	A	High school	ol graduat	е.		
21	Q	And you we	ere a high	school gr	aduate in 19	67?
22	A	Yes.				
23	Ç	Did you st	wear an af	fidavit Ju	ine 23, 1973	in con-
24	nection	with this ca	se?			
25	41 Cm 2	Yes.				

1	DeSa1	B. Ramsey - direct 81
2	Q	Are the facts stated therein true and correct as
3	of toda;?	
4	A	Yes.
5	Q	Do you wish to make any changes in that affidavit?
6	A	No.
7	Q	Did there come a time when you learned that your
8	husband ha	d been charged with the robbery of the Project
9	Liquor Sto	re?
10	A	Want to say that one again?
11	Q	Did there come a time in 1967 when you learned that
12	your husba	nd had been charged with the robbery of the Project
13	Liquor Sto	re?
14	A	Yes.
15	Q	From whom did you learn this?
16	. A	I learned it from Donald.
17	Q	Approximately when did you learn it?
18	A	This was after he was arrested for the homicide
19	down in th	e Tombs.
20	Q	Could you estimate, was it near the end of November
21	A	I guess so. I can't say for sure on that.
22	Q	You stated that this was after he had been arrested
23	for the ho	micide.
24	A	Right.
25		Did you know that he had counsel in connection with

1	DeSa1	B. Ramsey - direct	82
2	the homicide	e ?	
3	A .	At the time, no.	
4	Q	When did you learn that Mr. Domanti was Dona	ld's
5	counse?		
6	· A :	This was after he was arrested for the homic	ide,
7	he was down	in the Tombs he was down in the Tombs.	This
8	is when he	had told me that he had gotten Domanti.	
9	Q	Then you did not obtain Mr. Domanti yourself	?
10	A 1	No.	
11	Q	when you say that Donald had gotten Domanti,	did
12	you mean you	thought or it was your thinking that Donal	d had
13	gotten Domai	nti himself?	
14	A 1	No.	
15	Q	How did you think Mr. Domanti became your hu	sband'
16	counse1?		
17	A :	I can't say. All I know is when I went to s	ee him
18	he had told	me that the lawyer had came to him and aske	d to
19	be his lawy	er. He had agreed to it.	
20	Q V	When was the first time you met Mr. Domanti?	
21	A _k	In court.	
22	Q	Approximately when was this? Was this in co	nnec-
23	tion with th	ne homicides or the robbery?	
24	Α	believe this was for the robbery.	
25		las it a preliminary stage or are you referr	ina ta

B. Ramsey - direct 83 1 DeSa1 the trial itself? 2 3 The trial, the trial. So you never met Mr. Domanti face to face prior to Q 5 the trial? 6 No. 7 Did you telephone Mr. Domanci or did Mr. Domanti Q 8 telephone you at any time prior to the trial? 9 Before the trial he telephoned my mother-in-law. A 10 Did you ever speak to him prior to the trial? Q 11 No. I spoke to him in court then. This is where I 12 met him. 13 MR. SPIEGEL: Your Honor, there seems to be some 14 eye contact back and forth here between the petitioner and his 15 wife. I would like to ask at this point that the petitioner 16 be excluded from this testimony. 17 THE COURT: No, I'm not going to exclude him, and 18 I haven't observed what is going on but we won't have any. 19 Go ahead. 20 Did you ever indicate to Donald that you would be 21 willing to testify on his behalf at the trial? 22 Yes. 23 Q Did you ever make it known to Mr. Domanti that you 24 would be willing to testify? 25 Yes.

1	DeSal	B. Ramsey - direct 84
2	Q	Did you do this at the trial?
3	A	At the trial, during the trial.
4	Q	What did Mr. Domanti respond to your evidence of
5	willingne	ss to testify?
6	A	He told me it wouldn't be necessary. He told me
7	that a wi	fe's testimony was not recognized.
8	Q	Did you question this?
9	A	No.
10	Q	Did you visit Donald frequently while he was in
11	the Tombs	awaiting trial?
12	. A	Yes.
13	Q	Did he at any time indicate to you that Mr. Domanti
14	had not vi	sited him for some reason and that he had something
15	to say to	Mr. Domanti?
16	A	Yes.
17	Q	Did he ask you to telephone his office?
18	A	Yes.
19	Q	Were you ever successful in reaching Mr. Domanti or
20	did you le	ave messages?
21	A	No. Most of the time that I called he wasn't even
22	in the off	ice.
23	Q	Did you leave a message, for example, for him to
24	call you?	
25	A	On an answering service.
CHARLES HE WAS		

	1	DeSa1	B. Ramsey - direct 85
	2	Q	Would this have been a tape, for example?
	3	A	I don't know. I can't say.
P	4	Q	You wouldn't have known whether or not it was a
	5	tape but y	ou did attempt to leave messages?
	6	A	Yes.
	7	Q	Did you ever call or did you ever ask him to call
	8	your mother	r-in-law?
	9	A	Well, at the time I was staying with my mother-in-
	10	law.	
	11	Q	Did Mr. Domanti ever ask you for the names and
	12	addresses :	of any persons who could substantiate the events of
	13		f September 22, any persons who would have been at
	14		during that time?
	15	A	Yes.
	16	· · Q	Did you provide him with these names?
	17		Yes.
	18	o	Who were these people?
	19	A	James Reed, Kibogoyo, Mjuaji and Mfariji.
	20		Did you provide him with those full names?
	21		THE COURT: What's your question, did she provide
	22	whom?	
	23		MRS. MC MEEN: Domanti.
	24		THE COURT: Did you do that?
	25		THE WITNESS: Yes.

1	DeSal B. Ramsey - direct: 86
2	THE COURT: When did you do that?
3	THE WITNESS: Almost towards the middle of the
4	trial then.
5	Q You pinpointed a time during the trial. Was this
6	after your husband had testified on February 29th?
7	A No. It was before because he wanted the witnesses
8	and everything then.
9	Q He asked you then to try to locate these witnesses
10	A Yes no, he didn't try to locate them until
11	almost towards the end.
12	Q He asked you if you could get these witnesses in
13	court?
14	A Right.
15	Q To testify?
16	· · A Yes.
17	Q Did you make that attempt?
18	A Yes, I did make the attempt.
19	Q Did you telephone them?
20	A Yes.
21	Q And you were not able to get them there before the
22	jury went into recess?
23	A Well, it was hard contacting. There was either no
24	answer
25	But you made several attempts toward the end of the

1

trial to get in touch with these witnesses?

3

2

Yes.

4

Did you report to Mr. Domanti that you could not Q get them?

5 6

A Yes, besides one.

7

Who was it?

8

A Kibogoyo.

9

You were able to reach Kibogoyo?

10

Yes. A

Q

Q

Q

me to wait.

him?

11

Did you explain to Mr. Domanti that you had reached

12

13

Yes. A

14

Did you tell Mr. Domanti then that he would be Q

15

Yes.

available to testify?

17

16

What was Mr. Domanti's reaction? Q

18

He told me to wait. During the trial he had told

Mr. Domanti arrange any interviews with you and the press?

At any time while Donald was awaiting trial did

19

20

21

22

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Could you go into some detail? Q

Yes.

25

A There was a fellow in the Post, I don't know if it was John or Joseph Amillo or Camello, something like that.

1	DeSal	B. Ramsey - direct 88
2	Q	What was the purpose of this interview?
3	Α	He was interested in the case insofar as a book or
4	magazine h	e wanted to write.
5	Q	He wanted you to write?
6	A	No, he was interested in writing. Then he said
7	that it wo	uld be good as far as with the case being concerned.
8	Q	Did anything further come of this or was this your
9	only meeti	ng?
10	A	This was the only meeting.
11	Q	Just to back up a bit, did Mr. Domanti supply you
12	with the n	ame of this person or did he introduce you to him
13	or what?	
14	A	Well, he was in court, he was in court.
15	Q	The person from the Post?
16	A	Right.
17	Q	Is that where you saw him?
18	A	Yes.
19	Q	So you never went to his office, for example?
20	A	The man who worked for the Post?
21	Q	Yes.
22	A	No.
23	Q	You just chatted with him in court, yes?
24		THE COURT: I didn't hear the answer to the ques-
25	tion. Did	Mr. Domanti introduce you to that person?

1	DeSal	B. Ramsey - direct	89
2		THE WITNESS: Yes.	
3		THE COURT: He did?	
4		THE WITNESS: Yes.	
5		THE COURT: The answer is yes?	
6		THE WITNESS: Yes.	
7	Q	Now, when did this take place, when you said	in
8	court, duri	ing the trial?	
9	A	This was during the trial.	
10		(Pause.)	
11	Q	Going back to the night of September 22, 196	7, the
12	night when	the Prospect Liquor Store was robbed, where	were
13	you and Do	nald living at that time?	
14	A	169 Avenue B.	
15	Q	Were you living along or with other members	of the
16	household?		
17	A	It was me and Donald and my son, our son.	
18	Q	Is this an apartment building?	
19	A	Yes.	
20	Q	Did you live on the top floor?	
21	A	Yes.	
22	O	Did you own a dog at that time?	
23	A	Yes.	
24	Q	Can you remember what you did on that partic	ular
25	day4 :- '		

1	DeSal	B. Ramsey - direct	90
2	A	Well, we was home. What I actually did?	
3	Q	Well, did you have visitors?	
4	A	Me, I was cooking, taking care of the baby;	
5	Donald and	Kibogoyo, Mjuaji, Mfariji played the drums.	
6	Q	Approximately when did the three persons you	named
7	arrive?		
8	A	Early during the day.	
9	Q	Can you be a little more specific? Was it in	the
10	early after	rnoon, morning?	
11	A	Sometime in the afternoon.	
12	Q	Fairly early or later in the afternoon?	
13	A	It would be early. Around like one, 12 o'clo	ock.
14	I can't ren	nember what time.	
15	Q	You were at home the entire day?	
16	· · A	Yes.	
17	Q	You did not leave?	
18	A	No.	
19	Q	And you said Donald and the three of his frie	nds
20	were playir	ng the drums. Did they do anything else?	
21	A	Watch African fashion show.	
22	Q	On the television?	
23	A	Yes.	
24	Q	Did you prepare dinner for anyone or did they	just
25	simply snac	k?	

1	DeSal	B. Ramsey - direct	91
2	A	No, they had dinner with us.	
3	Q	And you prepared it?	
4	A	Yes.	
5	r	At any time during the course of the evening of	did
6	your husbar	nd leave the apartment?	
7	A	Yes.	
8	Q	For what purpose?	
9	A	To run the dog on the roof.	
10	Q	How long was he gone?	
11	A	Maybe two seconds. I don't know how long it	takes
12	him.		
13	Q	Would you estimate that he was gone perhaps a	s
14	long as it	would take to take the dog out to the roof an	d back?
15	A.	Yes.	
16	· · Q	Can you estimate the number of times he took	the
17	dog out?		
18	A	Maybe about twice, about twice. About twice,	
19	maybe :hre	e times.	
20	Q	When Donald went out for any of these walks w	vith
21	the dog, y	you remained behind. Did any of his friends le	ave
22	during the	course of that?	
23	A	No, except for one.	
24	Q	What one was the first person to leave?	
25		They left before it was night, that was for	sure.

1	DeSa1	B. Ramsey - direct 92
2	Q	One of them left before it was night?
3	A	Yes.
4	Q	The other two stayed on through the evening?
5	Α	Yes.
6	Q	Did they both leave together?
7	A	Yes.
8	Q	The two friends? Did your husband leave with them
9	at any tim	e?
10	A	Yes.
11	Q	Approximately what time, when they left for the
12	evening?	
13	A	Yes.
14	Q	Was this late?
15	A	It was late, it was late.
16	· · Q	Can you tell us the time?
17	A	The time? It was late.
18	Q	Was it after midnight or shortly before?
19	A	Could have been after midnight.
20	Q	Why did your husband leave with the two men?
21	A	Well, he helped Kibogoyo because Kibogoyo hadn't
22	too lor.g a	go gotten out of the hospital and he had a bad leg.
23	Q	Did he walk with a limp?
24	A	Yes.
25		And where did your husband go with Kibogoyo?

*

•	1	DeSal	B. Ramsey - direct 93
	2	A	To the bus stop, to the bus stop.
	3	Q	Where is the bus stop?
	4	A	On Avenue B and 14th Street.
	5	Q	At any time when Donald had gone out with the dog,
	6	did he co	me back breathless at all or agitated in any respect?
	7	A	No.
	8		MRS. MC MEEN: I have no further questions.
	9	CROSS EXA	MINATION BY MR. SPIEGEL:
	10	Q	Mrs. Ramsey, are you aware of the crime for which
	11	your husb	and is bringing this action for?
	12	A	For the liquor store, yes.
10	13	Q.	For what in the liquor store?
	14	A	Robbery of the liquor store.
	15	Q	And are you aware of the date on which this crime
	16	took plac	e?
	17	A	In September.
	18	Q	September what?
	19	A	22.
!	20	Q	September 22 what?
	21	A	. September 22, 19 I don't go back to dates.
	22	Q	Well, what year?
	23	A	'67.
	24	Q	'67. On that day were you in the apartment the
	25	entire da	y?

1	DeSal	B. Ramsey - cross 94
2	A	Yes.
3	Q	From morning until evening?
4	A	Yes.
5	Q	Mrs. Ramsey, I'm a bit puzzled by a part of your
6	testimony.	Did you ever speak to Mr. Domanti in person prior
7	to the sta	rt of the trial?
8	A	No.
9	Q	Did you ever speak to Mr. Domanti prior to the
10	trial?	
11	Α	No.
12	Q	You didn't speak to Mr. Domanti prior to the trial?
13		You are talking about before the trial? No.
14	ę	Prior to the trial. The trial started on February
15	26, 1968.	
16	· . A	In person, no.
17	Q	Well, did you speak to Mr. Domanti at all?
18	A	To my rememberance, no.
19	Ç	I'm not talking about in person now, Mrs. Ramsey.
20	I am talki	ng about by telephone or without meeting him, did
21	you speak	to him at all?
22	A	No, I didn't.
23	4	When was the first time that you spoke to Mr.
24	Domanti?	
25		In court.

1	DeSal B. Ramsey - cross 95
2	Q In court. The first time ever that you spoke to
3	him?
4	A Right.
5	Q Were you in contact with your husband at all during
6	the period prior to the trial?
7	A Yes.
8	Q Did your husband ask you to speak to Mr. Domanti?
9	A At this particular time I did not know he had a
10	lawyer until after he was arraigned, because we was all look-
11	ing over for lawyers.
12	Q Well, he was arraigned at the end of November, 1967.
13	Now, did you
14	MR. LEVIT: Your Honor, I object to the question
15	since he doesn't refer to arraigned on what. It's an
16	ambiguous question.
17	Q Mrs. Ramsey, your husband was arraigned in connec-
18	tion with the robbery crime, the robbery of the liquor store
19	at the end of November 1967. Now, were you in contact with
20	your husband at any time after that?
21	A Yes, yes.
22	Q Did your husband ask you to contact his lawyer at
23	any time after that?
24	A No wait. You want to repeat that question again
25	Your husband was arraigned in connection with this

De Sal B. Ramsey - cross 96 robbery charge, the robbery of the liquor store, at the end of November 1967. Now, did you know -- let me rephrase that 3 question. Did you know at any point after the end of 4 November 1967 from conversations with your husband that your 5 husband had a lawyer? 6 7 A Yes. 8 About when did you learn that your husband had a Q 9 lawyer: 10 This was at the trial when it was getting ready to 11 select & jury. 12 Q About when was that? 13 Whenever it was they were getting ready to select 14 I don't know what day it was they selected a jury. a jury. 15 Would it refresh your recollection that the trial 16 started on February 26, 1968. Would you remember approximately 17 when was the first time that you learned your husband had a 18 lawyer? 19 It was before the trial because he told me this 20 down in the Tombs, that he had had a lawyer called Domanti. 21 Did your husband ask you to contact the lawyer? Q 22 No -- yes, he did, he did. 23 But you did not in fact speak to the lawyer until 24 the trial? 25 Right. This is when I met him and know how he

97 B. Ramsey - cross DeSa1 1 looked and who he was. Mrs. Ramsey, I believe you stated before that 3 three friends dropped over to your apartment on September 22, 4 1967. Is that correct? 5 6 Yes. At what time or times did they leave? 7 Like I said before, one left early, before dark; 8 the others probably -- I can't say if they left after 12 or 9 10 before 12. Did they leave together? 11 Q 12 Yes. 13 MR. SPIEGEL: No further questions. 14 REDIRECT BY MRS. MC MEEN: When you stated that you had only talked to Mr. 15 Q Domanti in court, did you frequently go to the different court 16 17 appearances your husband had in connection with each of his 18 pending charges? 19 Yes. 20 And did you see Mr. Domanti in court at that time? Q 21 MR. SPIEGEL: Your Honor, this is something that 22 has been gone over. This is just leading the witness over 23 previous testimony. 24 THE COURT: I think you are leading somewhat. 25 MRS. MC MEEN: I'm just trying to clarify it.

1 De Sal B. Ramsey - redirect 98 had the impression the witness was somewhat confused. 2 THE COURT: Yes, but you are going to have to watch 3 that because if there are any discrepancies I'm going to have 4 to make credibility judgments. If you lead they are going to 5 6 affect those judgments. 7 Mrs. Ramsey, did you at any time know that Mr. Q 8 Domanti was having trouble reaching any of the three witnesses? No. 10 Or James Reed? Q 11 No. 12 If you knew he was having trouble, could you have Q assisted him in contacting them? 13 14 Yes. 15 Were you present at every session of the trial? Q 16 Yes. 17 And then you were also available to testify if you Q 18 had been asked? 19 Yes. 20 MRS. MC MEEN: I have no further questions. 21 THE COURT: Anything else, Mr. Spiegel? 22 RE-CROSS BY MR. SPIEGEL: 23 Q When was the first time that you indicated to Mr. 24 Domanti that you would like to testify? 25 From the beginning.

1	DeSal B. Ramsey - re-cross 99
2	Q From the beginning of what?
3	A This was the day that they had selected the jury.
4	Q The day they selected the jury?
5	A Right.
6	Q Perhaps you could clear up some confusion in my
7	mind. On previous testimony you stated that the first time
8	you spake to Mr. Domanti was during the trial.
9	A Well, this is still during the trial. They have
10	to select a jury, right? This is the first time I saw the
11	man to see how he looked or who he was.
12	Q But you stated that the first time that you spoke
13	to Mr. Domanti was during the actual trial.
14	A Direct spoken, like a conversation, like we sitt-
15	ing, yes.
16	Q Was that the first time that you mentioned to Mr.
17	Domanti that you would like to testify?
18	A It was at the beginning of the trial.
19	Q What do you consider the beginning of the trial,
20	Mrs. Ramsey?
21	A When they take and select the jury and then they
22	start their court case.
23	Q And you indicated to Mr. Domanti that at that point
24	you would like to testify?
25	Yes. It was while the trial was starting to begin

100 B. Ramsey - re-cross DeSa1 1 going on, yes. Well, had the jury been selected at this point 3 when you indicated to him that you would like to testify? At this point when the jury was, was being selected 5 I was not even allowed to go across the little tables and 6 chairs from where this fellow hear is sitting. 7 When was the first time? 9 That I actually had a conversation with him was the 10 first day of the trial. 11 What was the substance of this conversation with 12 him? 13 How the trial would go, what would it involve, and 14 if I was able to testify. 15 The first day of the trial was February 26, 1968, Q . 16 'so your testimony is that that was the first time that you 17 spoke to Mr. Domanti about testifying? 18 Yes. 19 MR. SPIEGEL: No further questions. 20 THE COURT: Anything else? 21 MRS. MC MEEN: No further questions. 22 THE COURT: Are you calling other witnesses? 23 MR. LEVIT: No, your Honor, that completes the 24 petitioner's case. I do understand that we would have called 25 Mr. Domanti but for the fact that the respondents have indi-

1	DeSal B. Ramsey - re-cross 101
2	cated they are going to be calling him as a witness today.
3	THE COURT: All right. I would like to ask you,
4	Mrs. Romsey, have you tried, since this proceeding has been
5	going on in this court, to reach any of those three men who
6	were at your house on September 22nd?
7	THE WITNESS: Yes.
8	THE COURT: Have you succeeded?
9	THE WITNESS: Yes.
10	THE COURT: Which ones have you reached?
11	THE WITNESS: Kibogoyo and Mfariji.
12	THE COURT: Would you give me their American style
13	names?
14	THE WITNESS: I couldn't tell you the American
15	names.
· 16	THE COURT: Mr. Ramsey?
17	THE DEFENDANT: Kibogoyo would be Richard Curtis
18	and Mfariji would be George Aponte.
19	THE COURT: You know where they live now?
20	THE WITNESS: Only know through a phone number,
21	that'a all.
22	THE COURT: 'But you have their phone numbers?
23	THE WITNESS: Yes.
24	THE COURT: And you have given those to the lawyers
25	here?
NAME OF STREET OF STREET	

102 B. Ramsey - re-cross DeSa1 1 THE WITNESS: Yes. 2 THE COURT: Anything else, counsel? 3 MR. SPIEGEL: No. This may be premature, your Honor, but at this point I would like to move to dismiss. 5 THE COURT: Wait. Let me just see if we are through 6 with the witness. 7 Anything else? 8 MR. LEVIT: We have no further questions of this 9 witness, your Honor. 10 THE COURT: All right, Mrs. Ramsey. 11 (Witness excused.) 12 THE COURT: Yes, it's premature. Let's put on 13 whatever evidence we have. 14 Do you have a witness? 15 MR. SPIEGEL: We have two witnesses, your Honor. 16 One who will testify at some length, Mr. Domanti, and his 17 legal secretary who was working for him will testify briefly. 18 THE COURT: We are going to suspend from about 19 five minutes of one to about 2:15. It's now some 23 minutes 20 to one, so let's get started with whatever witness you have. 21 22 MR. SPIEGEL: All right, your Honor. 23 (Pause.) D O M A N T I , called as a witness on behalf 24 JOSZPH 25 of the respondent, testified as follows:

1	De Sal	Domanti - direct	103
2	DIRECT FXA	MINATION BY MR. SPIEGEL:	
3	Q	Mr. Domanti, are you a member of any bars?	
4	A	Yes, I am.	
5	Q ·	Which bars?	
6	A	New York State and the Eastern District of	New York.
7	Q	Any other bars?	
8	Α	No.	
9	Q	Any other memberships?	
10	A :	No.	
11	Q	When were you admitted to the Bar?	
12	A	December 11, 1961.	
13	Q-	And what law school did you attend?	
14	A	St. John's University.	
15	Q,	When did you graduate?	
16	A	1961.	
17	Q	After you were admitted to the Bar in 1961	, Mr.
18	Domanti, v	where did you work?	
19	Α	The Continental Insurance Company.	
20	Q	Doing what?	
21	A	As an adjuster and an investigator.	
22	Q	Did there come a time after that when you	began
23	doing other	er forms of legal work?	
24	A	Yes. I went into my own practice.	
25		About when was that?	

1	DeSal	Domanti - direct	104
2	Α.	About '63 or '64.	
3	Q	What sort of work did you do?	•
4	A	Criminal. Then I had a neighborhood type	practice,
5	which J s	till have, a store front in the Village.	
6	Q	Where was this law office of yours set up	?
7	A	At that time it was at 205 Prince Street.	
8	Q	Prince Street on the lower eastside?	
9	A	The westside, in the south Village.	
10	Q	You say you did criminal work. Did you h	ave any
11	trials in	the period between 1964 and 1967 before th	e time you
12 °	met Donald	d Ramsey?	
13	A	Yes, I did.	
14	Q	Where were these trials?	
15	A	In Manhattan and Criminal Court.	
16	Q	Mr. Domanti, could you explain for the Co	urt how you
17	came to kn	now about Mr. Ramsey's robbery case?	
18	A	Yes. At that time I was representing a 1	ot of
19	hippies in	the east and west Village. They all knew	me. I
20	was bor, i	n the neighborhood. Some people came to me	e in the
21	Village an	d said that Donald had been arrested on a	homicide
22	charge ini	tially, and asked me if I thought I could I	help him,
23	if I would	represent them. I talked to them.	
24	- 20 En + 20 En +	At some point after that, I believe his wi	fe, Mrs.
5	Ramsey, who	o called me and she asked me if I would rep	resent

Donald .

DeSa1

I went in to see Donald and we had a discussion and I told him I would represent him.

Q The first person to contact you about the case was Mrs. Ransey?

A Not the first. There were others. Some people in the Village. I don't remember their names now. People who used to hang around the park, Tompkins Square Park, who asked me about it. They had read it in the papers and told me that they had heard that Donald was being framed because he was black, or whatever, and I told them I would look into it.

Shortly thereafter his wife called me.

Q You say these were friends of Mr. Ramsey?

A Yes, people who knew him, acquaintances from the park and from that area.

Q Now, Mr. Domanti, how many times did you visit Mr.

Ramsey in jail in conjunction with this case, that is prior to
the start of the trial I am talking about?

A Many, many times. I visited him and we also discussed the homicide case. At some point another case came up, some kind of rape charge was involved. So we discussed the three of them.

Q How long were these visits?

Anywhere from 20 minutes to several hours.

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How much time would you estimate you spent in preparing for this robbery case?

Between 50 and 75 hours. In preparing for the robbery I was also preparing for the homicide and investigating the rape. I used to go out in the afternoons, at night around the Village. I was trying to get some information on the complaint about the rape. I had heard there were other people in this barement at the time of the homicide. I was trying to find out who they were. It was really a whole thing with the two or three cases. But on this case about 50 hours.

- Did you take notes on the case, on this robbery case?
 - Yes, at the time I did. A
 - Do you still have these notes in your possession? Q
- No. I have a typewritten transcript which I found this morning of a statement Donald had written which was transcribed and typewritten involving the homicide, with some references to the robbery, but not, you know, much. I mean it's a whole long thing.
- Now, these visits that you made to Mr. Ramsey in jail, were they spaced throughout the entire period from the time that he was arrested in September '67 in relation to the robbery charge to the time of his trial?
- Yes, I recall they were.

1	DeSa1	Domanti - direct	107
2	Q	Did you visit him more at any particular tim	e and
3	less at an	y particular time?	
4	A.	I really don't remember, because there were	times
5	I went in	and visited other defendants. I visited Mr.	Ramsey
6	and others	on the same day. It was a long time ago.	
7	Q	Do you recall what day the trial started on?	
8	Α	No, I don't.	
9	Q	Would it refresh your recollection that it s	tarted
10	on Februar	y 26, 1968, does that refresh your recollecti	on?
11	A	Yes, somewhat.	
12	Q	In February, the month of the trial, prior t	o the
13	trial, do	you recall how many visits you made to Donald	Ramsey
14	in connect	ion with the robbery case?	
15	A .	Several. I couldn't give you a number. I r	eally
16	don't remen	mber.	
17	Q	Now, during these discussions that you had w	ith
18	Mr. Ramsey	did you have occasion to ask him what he was	doing
19	on Septemb	er 22, 1967, the day the liquor store was rob	bed?
20	A	Yes, I did.	
21	Q	And what did he tell you?	
22	A	Well, he told me he was at home with his wif	e and
23	some frien	ds. I believe he said having some sort of a	party
24	or playing	drums or something to that effect.	
25	· · · · · · · · · · · · · · · · · · ·	Did he tell you how many friends were visiti	ng him

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on that day?

Domanti - direct

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He said at some point there were three people, three Friends who were at the house and his wife, if I'm not mistaker.

Do you remember about what time he said these friends came over to his house?

In the afternoon or early evening. I had checked, at that time that the robbery was allegedly committed, and he apparently at that time gave me the impression that he was at home at that time and had not left.

Now, did you question Mr. Ramsey at length about this story of his, his story about what he was doing on the day or the night of the crime?

Yes, I did.

Did you ask him, did there come a point at which you asked him for the names of the three friends that came over to visit him?

' A Yes, I did.

Did he give you their names? Q

I don't think so. He gave me some names but it is not very clear in my mind. As I think about it, they were names, I don't remember whether they were Anglo Saxon names. He did say his wife knew them and he would have her get them in touch with me.

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Q You stated he stated there were three friends visiting him. Was he able to give you the names of all three people?

A He gave me one name. It was an African type name I recall. It is very vague. The others he told me his wife would have contact me.

Q Did he at any point give you any addresses for those friends?

A No.

Q Did he give you any phone numbers?

A No.

Q *Did he mention the name James Reed during the course of your conversation?

A That name sounds familiar. I believe that was the name, one of the names he may have mentioned or may have mentioned somewhere along the line. I'm not sure whether it was at that time but it may have been. I don't remember it being an Anglo Saxon name. That's what bothers me at this point. But I have heard the name.

Q Mr. Domanti, did there come a time when you approached one of these three friends that had visited Mr. Ramsey's apartment?

A Yes.

Q Do you remember approximately when this occurred?

A Well, on one of the appearances prior to the trial, it was a short period before the trial, as I recall. It may have been in late March or early February. It was on one of the dates that the case was on the calendar. I don't know which case, the robbery case, the homicide case or the rape case. The gentleman did approach.

Q The trial started on February 26, 1968. Do you remember approximately how much before the trial this man approached you?

A Within three weeks from that time, prior to that time.

Q What was --

A Or a month.

Q What was the substance of your conversation with this man?

A He came up to me. I don't know whether he identified himself but he told me he was one of the witnesses at the home who was sent to me by his wife or by Donald. I questioned him about that evening and he just kind of looked at me. I said, "Were you there?" He said something to the effect, "I'll say I was there if I have to but I'd rather not."

I said, "I don't want you to perjury yourself.

If that's what you are going to do I'd rather not put you on
the stand."

1	DeSal	Domanti - direct	111
2		Then he walked away.	
3	Q	Did he offer you an address?	·
4	A	Nothing.	
5	Q	Did you get his address?	
6	A	He was very vague. He told me that "I	'm here and
7	I understa	and you need witnesses who were at the h	ome to help
8	Donald "		
9	Q	Did he give you a telephone number?	
10	A	No.	
11	Q	Did you ask him for a telephone number	?
12	A	Yes, I asked him who he was but he was	very vague
13	about eve	rything.	
14	Q	Why did you decide not to use this per	son as a
15	witness?		
· 16	· · À	I thought that he would be committing	perjury.
17	That was	my opinion at the time, if I used him.	
18	Q	Did it appear to you that this person	wanted to
19	testify?		
20	A	No, no. Quite to the contrary.	
21	Q	Did you tell your client, Mr. Ramsey,	about what
22	happened	with this friend of his?	
23		Yes, I told him about that. I told him	n I was having
24	a prob.em	with respect to the other two, that no	one had been
25	in touch	with me and that his wife had not produc	ed the other

Q Did there come a time at any point immediately prior to the trial or during the trial when you talked to Mr. Ramsey about his appearance as a witness?

A Oh, yes.

Yes, it was.

Q By the word "appearance" I'm referring to clothing he was wearing. Did you talk to him about clothing?

A Yes. He was wearing some kind of a hat, I don't know what they call it, and I told him perhaps he should take it off during the trial but he explained to me that it was part of his religion at that time, I believe the Arruba religion and he could not take it off. I said, "If that's the way you feel, wear it but I don't think you should."

Q Did you tell him why you didn't think he should wear this cap?

A Well, I didn't think the jury would be impressed by his rearing a hat in court. There had been a movement on at that time with the Arrubas and I believe the Black Muslems. I just told him I thought his appearance would have been much nicer in court in front of the jury if he wasn't wearing the hat. It was an impression I had and I explained it to him.

He told me it was his religion and it was necessary for him to wear that hat and not to remove it. When he told me it was his religion I told him to wear it. That's the way

DeSa1 Domanti - direct he felt but I advised him against it. (Luncheon recess.) . 16

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AFTERNOON SESSION:

(In open court.)

Joseph Domanti resumes

CONTINUED DIRECT BY MR. SIEGEL:

Mr. Domanti, did there come at any point, at any time a point at which you asked Mr. Ramsey to draw up or write up an account of the events of the robbery crime of which he was charged?

No. I asked him to write up an account of the events with respect to the homicide case.

Did this account that he drew up in any way touch on the robbery case?

Yes.

And is there a draft of what he told you available? Q

Yes, there is. Not of what he told me, of what he wrote.

Q What he wrote, was this taken down by anybody?

It was written by him and it was typed, it was transcribed.

Now, at any point did you make a representation to Mr. Ramsey that you would try to sell his story?

No. He asked me -- well, I told him that I had been approached by people respecting that, and I told him about it and he asked me if there was a possibility, so that his wife

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Domanti - direct

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and his child could have some money and I said yes, but it wasn't even worth discussing at that point until after these trials were over.

- Q Is that what you told him?
- A Yes.
- Q Who initiated these conversations about the selling of the story?

A Well, neither Donald or I. I was approached by Gerald Frank, and he spoke to me about the possibility of doing a book. I believe he also stated that pending the outcome of the matter, that there might be a story involved that might be saleable.

I mentioned this to Donald, Mr. Ramsey, and Donald told me to explore it. I also explained to him that there is no sense turning these documents over for publication to anyone because of certain things that were contained in what he had written.

- Q You viewed these documents as privileged matter between you and Mr. Ramsey?
 - A Yes, and, well, you know.
- Q Well, did you at any point mention to Mr. Ramsey a figure that he might receive if this thing were sold?
 - A No.
 - You didn't mention at any point the figure of

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What did she tell you about that matter?

7 8

A Well, she didn't tell me too much. She was very, very vague. She then told me that she didn't want to testify. I asked her why and she was just blank. She said, "Don't tell Donald that I don't want to testify." She seemed very, very fearful. In fact, she was fearful of getting in an automobile with myself and Miss Dodd. I offered to drive her home and she said I can't get in a car with you because Donald's friends might see me and he's very jealous."

I toldher it would be helpful if she testified and she said she did not want to take the stand.

Q This getting into an automobile, when did this incident occur?

A Every time she was in court I offered to drive her home. If I didn't have an automobile I offered to take her home in a cab. On a couple of occasions after court, Donald's mother was in court and we went to Donald's mother's house with Mrs. Ramsey and sat with the mother and discussed the case, tecause the mother was very, very nervous and was not feeling well. She came to court quite often. After court we would go over to the home, myself and Miss Dodd or Mrs. Ellman now.

Q Did you ask Barbara Ramsey at any point for the names of the three friends who were at the apartment on September 22 1967?

1	DeSal Domanti - direct 118
2	A Oh, yes.
3	Q And what happened?
4	A Nothing. She just kind of looked at me and said,
5	"That I will be in touch with you." She was very, very
6	fearful at the time, a very, very nervous girl.
7	Q Did she ever name to you any of the names you
8	were missing?
9	A No.
10	Supply you any addresses or phone numbers?
11	A No, never.
12	Q Did you tell Donald about the problem you were
13	having?
14	A Yes, and he said he would talk to her when she
15	visites him and it would be straightened out; that I would be
16	contacted by people.
17	Q Were you in fact ever given any information by he
18	prior to trial concerning the three persons that were in the
19	apartmet.t?
20	A I was not.
21	Q Did you make any efforts on your own to locate
22	these three people?
23	A Well, I went around the Village many evenings
24	asking people who I knew, some of the hippy people, some of
25	the people that knew Donald from the park, asking questions

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Domanti - direct

about who his friends were, whether anyone else was at the house that evening, whether anyone was around the building at that time. I also questioned people about the homicide because I had heard there were other people supposedly in the basement that night when this thing took place and they were having a party with LSD and marijuana. It was a very, very mixed up affair.

But I could never ascertain who these people were, the people who were at the apartment or were supposed to be at the apartment on the night of the robbery, except for that one person who approached me in the hall in court.

Were you ever approached by any other persons other than that one person who approached you at the courthouse?

A I was approached by persons regarding the homicide case.

But the robbery case, were you approached by any persons besides this one gentleman who approached you?

A No.

Q Mr. Domanti, are you aware of the United States
Supreme Court decisions in the cases of Wade and Gilbert, the
decisions known as the Wade-Gilbert decisions?

A Yes.

Were you aware of these decisions at the time of

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the trial?

Yes. A

A large part of the evidence against Mr. Ramsey was based on the testimony of people who were in the store at the time of the robbery. Was there a reason why you didn't ask for a pretrial hearing in regard to these people?

At the time I didn't think it was that important. That may have been an error in judgment but I didn't think at that time it was important. I had the impression that the identifications were pretty solid and had a hearing been held it probably would have been denied. But, again, maybe I should have.

At this point thinking seven years later perhaps I should have but there were other matters that I knew about which kind of --

Were you aware --

THE COURT: He is in the middle of a sentence. There were other matters which you knew of what?

THE WITNESS: I just didn't think it was important at that time, your Honor. I thought the identification was pretty solid from what I heard around.

Did you feel that you could cross examine these witnesses?

- . 4: CA 2 Yes.

DeSa1 Domanti - direct 1 2 3 A Yes. 5 When was this first discussed? 6 0 7 8 9 testify. Because he told me he wanted to. 10 Q 11 about? 12 A Yes. 13 Q 14 about? 15 16 17 18 19 20 case generally. 21 Q 22 23 24 25 respect to the checks in the liquor store, his having cashed

121 Now, Mr. Domanti, did there come any point prior to the trial in the month of February that you spoke with Mr.' Ramsey about whether or not he would testify at the trial? Oh, prior to the trial, a while prior. I don't remember exactly, but we had assumed all along that he would Did you discuss with him what he would testify And what did you tell him he would have to testify Well, about where he was at the time the robbery took place. There was also a question of his having cashed checks in that particular liquor store. I told him he would have to testify to that, that he had cashed checks, and who was with him at the home on that evening. We discussed the Did you ever at any point say to him that he would testify only as to the checks he cashed in the liquor store? No. I told him that he would have to testify to the whole thing and that he would be cross examined with

1	DeSal Domanti - direct 122
2	them, for which there was no doubt because we did locate the
3	cancelled checks that had been cashed there apparently by Mr.
4	Ramsey and the fact that he was at home that day with friends
5	Q Mr. Domanti, there is some testimony in the record
6	given by Mr. Ramsey in response to questions asked by you
7	that indicates that he did not receive any as a matter of
8	fact let me read to you from the record. I am going to refer
9	to page 192 of the record.
10	The testimony on redirect is on page 192 and it
11	goes like this:
12	"Q Donald, when you took the stand yesterday
13	dil you know what questions I was going to ask you?
14	"A I did not know what questions you were going
15	to ask me.
16	" When is the last time I visited you?
17	"A The last time you visited me?
18	"Q Yes.
19	"A About three weeks ago, I believe.
20	"Q Did I come to see you last night?
21	"A Did you come to see me? No, you did not."
22	Mr. Domanti, when you stated the last time you
 23	visited Mr. Ramsey was approximately three weeks before that
24	date, what date was that in fact?
25	A I really don't remember, but I remember visiting

him shortly before the trial.

appear to be too rehearsed.

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Q Did you ask these questions in response to anything that occurred at the trial?

5

A I may have. I really don't remember.

6

Q When you stated in your questions whether Mr.

Ramsey knew what checks you were going to ask him, what did you mean by that?

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A Well, when I discussed the natter with him I told him what he would be asked on cross examination, what I thought he would be asked, and I discussed with him what his testimony would be, but I didn't actually frame each question. I told him to try to be as calm as possible and to tell the truth with respect to the cashing of the checks, when he cashed them.

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Q In other words, when you asked that question you were just indicating you had not coached him?

the store cashing the checks. I didn't want his testimony to

A Correct. I also thought that he would come over very well as a witness. He seemed like a pretty bright young man at the time. I didn't think he would have too many problems.

After the conclusion of the trial, Mr. Domanti, did

We discussed some of the dates when he had been in

Domanti - direct DeSa1 124 1 you at any point file a notice of appeal? No, I did not. 3 0 Why didn't you? 5 Well, I discussed with Donald. At that time it 6 was a very bit thing with respect to the filing. I told him 7 to just send a letter to the clerk of the court advising them 8 that he wished to appeal and to also request that his appeal 9 be prosecuted as an indigent, or something to that effect. I 10 told him I would not prosecute the appeal. 11 THE COURT: Does that complete your direct? 12 MR. SPIEGEL: That completes my direct. 13 CROSS EXAMINATION BY MR. LEVIT: 14 Mr. Domanti, do I understand your testimony on 15 direct examination to be that you commenced your own private 16 practice of law with emphasis on criminal law around 1963 or 17 1964? 18 Approximately, yes. I don't remember the exact 19 date. 20 Q That was on your own? 21 A Yes. 22 That was also on Prince Street, the same as it was 0 23 in 1967? 24 Yes. 25 Do I understand your testimony that in the period

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1	DeSal Domanti - cross . 125
2	1963-1954 up until the fall of 1967 when you began working
3	on the Ramsey homicide that you had had some experience in
4	the Criminal Court in New York City?
5	A Yes.
6	Q I understand, thought, that you had no experience
7	in the Supreme Court?
8	A I may have tried one or two cases. I really don't
9	remember.
10	Q What is your best recollection as to when you had
11	your first felony trial?
12	A Prior to Donald's case but I don't remember when?
13	Q What kind of a case was that?
14	A I really don't remember.
15	Q Was it a conviction or acquittal?
16	A I believe it was a hung jury.
17	Q You can't even remember your first felony trial?
18	A No.
19	Q That was your first jury trial also, wasn't it?
20	A Yes.
22	Q You can't remember what it was?
23	A I can't.
24	Q Are you reasonably competent that you had a jury
25	trial because at that time if you recall there were no jury
	trial-in misdemeanor trials in New York?

1	DeSa1	Domanti - cross 126	
2	A	That's correct, it was a three man bench.	
3	Q	Do you know how long it lasted?	
4	A	No.	
5	Q	That was the only one that you had prior to Ramsey?	
6	A	I believe. Maybe one other. I really don't	
7	remember.		
ક	Q	Were you somewhat trepidatious about the fact that	
9	your secon	nd experience with the Supreme Court in New York	
10	County ce	for that matter in felony case anywhere was going	
11	to be & do	ouble homicide, if not a very sensational type of case	?
12	A .	No.	
13	Q	You were fully confident that you were qualified to	
14	give Mr. H	damsey the type of representation that he is entitled	
15	to under t	he Constitution of the United States?	
16	· · A	Yes.	
17	Q	On what basis did you arrive at that conclusion?	
18	A	Well, I had had a lot of experience in the Criminal	
19 20	Court, cro	ess examining witnesses. I tried many, many cases.	
21	Q	You mean misdemeanor cases?	
22	A	Yes.	
23	Q ,	Not before a jury?	
24	A	No.	
25	Q	Did you ever have a Huntley hearing prior to the	
	nunciey he	aring in the homicide which Mr. Ramsey was charged	

1	DeSa1	Domanti - cross 127	
2	with?		
3	Α .	I don't remember. I may have.	•
4	Q	You can't recall?	
5	A	No.	
6	Q	I understand correctly though that you never had	а
7	Wade hearing	ng?	
8	A	No.	
9	Q	Wade came down do you recall when Wade was	
10	decided?		
11	A	No.	
12	Q.	What is your best understanding as to when Wade	
13	was decide	1?	
14	A	I guess about a year or so before Donald's case.	
15	Q	Did Wade apply only prospectively or also retro-	
16	actively?		
17	Α	I believe only prospectively.	
18	Q	Is that holding in the Wade case itself or in son	me
19	subsequent	decision?	
20	A	I believe it was a subsequent decision.	
21	Q	Do you recall what case that was?	
22	A	No, I don't.	
23		MR. SPIEGEL: Is this a moot court exercise or as	re
24	we going to	be discussing Mr. Domanti's competence? This is	s
25	what a law	student is put through at a law school.	

	1	DeSal Domanti - cross 128	
	2	THE COURT: Is that an objection?	
	3	MR. SPIEGEL: I contend it's immaterial.	
	4	THE COURT: Overruled.	
free -	5	Q Were you aware of the fact that on December 29,	
	6	1967, a wan named William Freedman, who represented Mr. Leek,	1
	7	filed a motion in Supreme Court, New York County, for a Wade	
	8	hearing in connection with his client, Mr. Leek?	
	9	A Yes, I believe so.	
	10	Q When did you first become aware of that?	
	11	A After the motion was granted, I believe. I'm not	
	12	sure.	
	13	Q What motion was granted that you are referring to?	
	14	A I believe they granted the motion on the Huntley	
	15	hearing with respect to the identification case. I don't	
	- 16	know. I kind of lost contact with Mr. Freeman.	
	17	Q Your understanding is that Mr. Freeman made a	
	18	motion for a Wade hearing and that motion was subsequently	
	19	granted and a hearing was held?	
	20	A I believe so.	
	21	Q And how was that hearing resolved?	
	22	A In the defendant's favor, I believe.	
••	23	Q In other words, the judge who conducted the hearing	ng
	24	determined that in fact the requirements of Wade had not been	1
. /	25	complied with and that accordingly the identification case	

1	DeSal Domanti - cross 129
2	would have to be suppressed with respect to Mr. Leek. Is
3	that correct?
4	A I believe so.
5	Q As a result of that the indictment against Mr.
6	Leek was then dismissed?
7	A I believe so, yes.
8	Q Is it your recollection that Mr. Ramsey and Mr.
9	Leek were named in a single indictment in connection with the
10	Prospect Liquor Store robbery?
11	A Yes, I believe so.
12	Q When did you first learn of the fact that Mr.
13	Ramsey was, as far as the District Attorney's office was con-
14	cerned, involved in a robbery of the Prospect Liquor Store?
15	A Well, after he was arrested on the homicide at som
16	'point.
17	Q Do you recall when he was arrested on the homicide
18	A I believe he was indicted. There was never an
19	arrest, so to speak.
20	Q In other words, he was not picked up by the police
21	on a complaint or as a suspect but rather a grand jury in New
22	York County returned an indictment with respect
23	A Yes.
24	Q Let me finish my question with respect to the
25	murders of Fitzpatrick and Hutchinson and pursuant to that

1	DeSal Domanti - cross 130
2	indictment a warrant was issued for Mr. Ramsey's arrest and
3	it was on that basis that he was brought in and charged?
4	A Are you referring to the homicide or the robbery?
5	Q The homicide.
6	A I don't know. No, there was no indictment. You
7	are confusing me between the robbery. On the homicide he was
8	arrested and subsequently indicted.
9	Q Do you recall when he was arrested on the homicide?
10	A No.
11	Q Do you recall when the first time was you had any
12	contact with Mr. Ramsey?
13	A You mean the date?
14	Q Yes.
15	A No.
· 16	Q Do you recall what month it was?
17	A. No.
18	Q What is your best recollection as to when you first
19	had any contact with Mr. Ramsey?
20	A Sometime during that summer or shortly after the
21	summer.
22	Q Of what year?
23	A The year that he was arrested.
24	Q What year was that?
25	

DeSal Domanti - cross

- Q What's your best understanding of the year he was arrested?
 - A I don't remember.
- Q Can you tell us the circumstances that led up to your first getting involved in the homicide?

A Yes, I was contacted by some individuals from the east Village who told me that Donald had been arrested on a homicide case, and they thought he was being framed, and they knew him from the park, and they asked if I could help him. I said I'd see, I don't know. Shortly thereafter his wife called me.

Q Isn't it a fact, Mr. Domanti, that when you had your iritial conference with Mr. Ramsey at the Tombs that you told him that a man named Moore, who had a book store in the east Village, had suggested that you contact Mr. Ramsey about representing him and on that basis you met with Mr. Ramsey?

A Man named Moore called me, I believe. He might have been one of the people who called me, and asked me about the case, and said he would be in touch. He asked me if I was interested and he would be in touch with me further. After that his wife called me.

Q Isn't it a fact that prior to your initial meeting with Mr. Ramsey in the Tombs that you had never communicated in any way with Mrs. Ramsey, either face to face or on the

1	DeSa1	Domanti - cross	132			
2	telephone?					
3	A	I had spoken to her on the telephone and I	believe.			
4	spoken to	her face to face.				
5	Q	That's your present recollection?				
6	A	I believe I spoke to her face to face. I	know I			
7	talked to	her on the telephone. I remember her calli				
8	Q	You are certain of that phone call but you	can't			
9	remember w	then Mr. Ramsey was arrested. Is that corre	ect?			
10	Α	Yes. I don't remember the date of the pho	one call			
11	either.					
12	Q	What would be your best recollection as to	when?			
13	A	I have no idea.				
14	Q	Why are you so certain there was such a ph	none call?			
15	A	I remember it.				
. 16	Q	You do?				
17	A :	Yes.				
18	Q	You are sure it wasn't a subsequent phone	call at			
19	a later date?					
20	Α	No. There were other phone calls from her	r subse-			
21	quently.					
22	Q	But this one stands out in your mind?				
23	A	Yes.				
24	Q	Did you make a memorandum of that phone co	onversation?			
25		I may have at the time.				

1 Well, as I think the respondent's attorney is 2 aware, we made a request by letter for any documents that you 3 have in your files relating to this case, including time 5 records, interviews, and so forth, and at this time I would 6 ask the Court to inquire as to whether or not any such docu-7 ments have been produced. 8

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MR. SPIEGEL: Your Honor, can we have this off the record, please?

THE COURT: Why do you want it off the record? MR. SPIEGEL: Well, there is one document that Mr. Domant, was able to locate. It's of a confidential nature.

THE COURT: Confidential vis a vis whom?

MR. SPIEGEL: It was a lawyer-client communication. It's the story of events.

THE COURT: The lawyer is being accused of incompetent representation. I would think that any privilege at this point has been utterly wasted. Is that correct?

MR. LEVIT: The privilege has belonged to Mr. Ramsey and he has waived the privilege.

MR. SPIEGEL: He has waived it with regard to communications between --

THE COURT: Obviously, all these communications, especially if they go to the issues in this case, where Mr. Domanti's competence as a lawyer is being tried by his client,

134 Domanti - cross DeSa1 1 the client is certainly in no position to claim the privilege and his now attorney has expressly waived it on the record. 3 Let's produce any of these papers. 4 THE WITNESS: I have nothing with respect to phone 5 6 calls, your Honor. I want everything that you do have in your posses-7 Q 8 sion. THE COURT: Whatever you do have, let's produce it. 9 You want it marked as an exhibit of some kind? 10 MR. LEVIT: Maybe have it marked as Petitioner's 11 12 first in order for identification. Maybe you could describe for the record what it is 13 Q that the clerk will be marking as Petitioner's 1, I take it. 14 I don't have the original that Donald wrote but 15 this is a typewritten transcription, exactly the way Donald 16 wrote it, the spelling and everything else, of what I asked 17 him when I visited him, I had taken some notes and I told him 18 I thought he should write out exactly what occurred on the day 19 of the nomicide, prior to that in his own handwriting, and he 20 21 did. It was typewritten. 22 Who transcribed it? Q 23 Bobby Dodd. 24 Is that the woman who is now presently excluded 25 from the courtroom?

	1	De Sa 1	Domanti - cross	135
	2	A	Yes. She transcribed most of it.	
	3	Q	It is your understanding that she would be i	na ´
7	4	position to	o authenticate this Exhibit 1 for identificat	ion?
	5	A	Yes, most of it. I think the last four or f	ive
	6	pages were	typewritten by myself or someone, I don't re	member.
	7	I know she	didn't get to finish it.	
	8	Q	But your testimony is that this is a typed v	ersion
	9	of a handwi	ritten document Mr. Ramsey gave you?	
	10	A	Yes.	
	11		MR. LEVIT: I would like to have that marked	. \
	12		THE COURT: You want it marked for identific	ation
	13	or in evide	ence?	
	14		MR. LEVIT: At this point I don't know what	it is
	15	so I guess	I would like to see what it is.	
	16		(Petitioner Exhibit 1 is marked for	
xx	17	ident	ification.)	
	18		MR. LEVIT: Maybe during the recess I can lo	ok at
	19	it rather	than waste the Court's time.	
	20		MR. SPIEGEL: I would agree to Xerox two cop	ies
	21	and take a	short 10 minute recess.	
	22		MR. LEVIT: I would rather proceed at this pe	oint,
٠	23	Mr. Spiege		
	24		MR. SPIEGEL: As a matter of fact we would we	ant to
	25	refer to de	ocuments. It might be expedient at this poin	

2 make two copies.

MR. LEVIT: It's not marked in evidence. At this point it's marked for identification.

THE COURT: I don't understand your problem with copies. Have you read it, Mr. Spiegel?

MR. SPIEGEL: I was just advised of this document by Mr. Domanti today. I glanced through it very briefly. I think my brief perusal of it indicated it had some very relevant information in it, although I had some question whether it came within the scope of their request, which is why we didn't submit it.

THE COURT: Well, in any event it's now marked for identification. I have a strong suspicion that if anybody wants it in evidence, it's going to be in evidence sooner or later, whether you have read it or not, but it is Mr. Levit's cross examination which is in progress and I will let him continue as he desires.

Go ahead, Mr. Levit.

Q What is your best recollection as to when Mr.

Ramsey gave you the handwritten document that is, as you testified, now transcribed in the form of Exhibit 1 for identification?

A Sometime shortly after the first time I spoke to

1	DeSal Domanti - cross 137
2	Q How soon after Ramsey was arrested on the homicide
3	did you speak with him?
	A I really don't remember.
4	
5	Q Would it help refresh your recollection if I told
6	you that the record facts in this case clearly establish that
7	the homicides occurred on October 7, 1967, and that Mr. Ramsey
8	was arrested, I believe, the following day?
9	A Well, I didn't speak to him on that day.
10	Q No, I am trying to set the time frame. Does that
11	sound about right?
12	A Yes.
13	Q So given that period of time as the time when
14	Ramsey was arrested, what would be your best recollection as
15	to your initial meeting with him?
. 16	A I really don't remember because I don't remember
17	when I was contacted and called by his wife. I don't know how
18	soon alter it was.
19	THE COURT: This was a highly publicized case,
20	wasn't it?
21	THE WITNESS: Yes, your Honor.
22	THE COURT: Was it a month later that you first sav
23	him after the homicide?
24	THE WITNESS: Possibly, your Honor.
25	THE COURT: Is that really possible? Try to think

De Sal 1 Domanti - cross 138 because this may be important. 2 THE WITNESS: It may have been a month, it may have 3 been two weeks. I really can't pin it down. 4 You have no books or records that will indicate 6 when you first --7 No. 8 Was the homicide the first case that you got involved 9 in with Ramsey or was it the Sharon Hun rape case? 10 I believe it was the homicide. 11 At the time you approached Ramsey in the Tombs for 12 your initial meeting was he then being represented by the 13 Legal Aid Society? 14 I believe so. 15 Isn't it a fact Mr. Ramsey was arraigned in Criminal 16 Court on a homicide complaint around the 8th or 9th of October 17 and was represented at the arraignment in Part I by Legal Aid 18 and shortly after that time you came on the scene and began to 19 represent him? Isn't that in fact what happened? 20 Yes. 21 So, in other words, what happened was that within 22 less than a week after the homicide you talked to Mr. Ramsey 23 and began your representation of him? 24 I really don't remember how long after. 25 Isn't that about right, about a week, 10 days at

DeSa1 Domanti - cross 1 139 the most? 2 I don't remember. 3 Well, give us your best recollection. I trust this is the most famous case you have ever handled, isn't it, the 5 6 Ramsey homicide? 7 Yes. 8 Have you ever had another case that got the kind of 9 publicity the Ramsey homicide got? 10 Yes. 11 What case was that? 12 Oh, the hippies --13 MR. SPIEGEL: This is a question that is highly 14 improper. In the sense it calls for an admission that there 15 was a strong amount of publicity in the Ramsey case which is 16 one of the issues that is in dispute at this point. 17 THE COURT: No, I'll allow it. 18 What other case did you have that got the kind of Q 19 notoriety that this case had? 20 I don't know if it got the kind this got, but the 21 hippies in Tompkins Park who were beaten by the police, and I 22 don't remember when but that got quite a bit. 23 You mean when a girl ran up a tree from Tompkins 24 Park and there was a fight with the police? 25 No. A fellow by the name of Frank Weiss was in the

1	DeSal Domanti - cross 140
2	park with a bunch of hippies and they were apparently asked
3	to leave, but that could be established, and the police went
4	in and just bashed some of their heads in and Frank Weiss
5	made a statement which was in many of the papers, "Oh my God,
6	is this happening in America?"
7	Q So those two cases were the two most notorious in
8	terms of publicity?
9	A I would think so.
10	Q But despite that fact that these are at least one
11	of the two most publicized cases that you handled you cannot
12	recall that it was within a week or 10 days after the arrest
13	that you began working on the Ramsey homicide?
14	A I really don't remember. If I did I'd tell you
15	but I tust can't.
· 16	· · Q Was it in October 1967?
17	A It may have been. I really can't remember.
18	Q When did you first become aware of the fact that
19	Mr. Ramsey was involved, at least as far as the District
20	Attorney was concerned, with this Prospect Liquor Store
21	robbery?
22	A At some point thereafter.
23	Q Well, what would be your best recollection?
24	A I don't remember.
25	Do you recall what month it would have been?

1	DeSal	Domanti - cross	141
2	A	No. ,	
3	Q	What year it would have been?	•
4	A	No. I guess that year.	44
5	Q	If I told you that the robbery occurred on	September
6	22, 1967,	would that help refresh your recollection?	
7	A	Yes.	
8	Q	So when would it have been?	
9	A	Shortly after it occurred.	
10	Q	And how did you learn that Ramsey was a sus	pect in
11	the rolber	ry case?	
12	A	An indictment came down.	
13	Q	That's when you first learned of it?	
14	Α	Yes.	
15	Q	Is it your testimony that that was shortly	after
16	September	22, 1967?	
17	A	At some time thereafter. I don't recall hi	s being
18	rearreste	d on that charge and formally charged in Crim	ninal
19	Court. I	remember an indictment.	
20	Q	Was Mr. Ramsey in the Tombs on the homicide	case
21	when you	first learned of the robbery case?	
22	Α .	Yes.	
23	Q	And what is your best recollection now? I	ve told
24	you the re	ecord indicates he was arrested on the 8th of	October
25	on the ho	micide, as to when you first learned of the m	obbery.

J					
		1	DeSal	Domanti - cross	142
		2	A	Sometime thereafter. I really don't	know. At the
		3	time the i	dictment was returned.	
P		4	Q	That was the first time you learned?	1.
		5	A	Yes.	
		6		MR. LEVIT: I would like to have mark	ked, your Honor
		7	as Petítio	ner's Exhibit 2 for identification a	copy of the
		8	indictment	in 3996 of 1967, People of the State	of New York
		9	against Ra	ndolph Leek and Donald Ramsey. It's	two pages and a
		10	back.		
		11		(Petitioner's Exhibit 2 is marked fo	r
	xx	12	icent	ification.)	
		13	Q	I'd like to show this Exhibit 2 for	identification
		14	to you, Mr	. Domanti, and ask you whether the ba	ck of this
		15	document r	efreshes your recollection where it s	ays that the
ì		16	indictment	was filed in Part 30, which is, as y	ou know at that
		17	time, the	pleading part in Supreme Court of New	York County
		18	where all	arraignments were conducted on indict	ments, on
		19	November 3	, 1967. It says, "Filed," and there	is a stamp.
		20	A	November 3.	
		21	Q	Does that refresh your recollection	at all as to
<u> </u>		22	when you	irst learned of the robbery case?	
		23	A	Well, it doesn't refresh my recollec	tion. I assume
		24	that that	was the date because the papers are s	o stamped. I
•		25	can't thir	k back now to November 3 and say that	was the day.

	1	DeSal Domanti - cross 143	
	2	I just don't remember. It was a long time ago.	
	3	Q Do you recall how you learned of the fact that the	hiś
	4	indictment named Ramsey?	
	5	A I either received a call or someone told me that	
	6	Donald had been indicted on a robbery case. It might have	
	7	been the District Attorney's office.	
	8	Q When was the first time that you advised Donald	of
	9	the fact that he had been named in what is Petitioner's 2 f	or
	10	identification?	
	11	A I don't know. Are you asking for a date?	
	12	Q Yes.	
	13	A I don't recall.	
	14	Q Was it prior to the arraignment on the indictmen	t?
	15	A I don't remember.	
•	16	Q Isn't it a fact, Mr. Domanti, that the first tim	ne
	17	you told Mr. Ramsey of the indictment on the robbery case w	ıas
	18	in Para 30 on November 28, 1967, which was the day he enter	ed
	19	a plea of not guilty with you standing there at his side?	
	20	A That may have been, because what ordinarily hap-	•
	21	pens of course I had no way of knowing that a robbery ca	se
	22	was being presented to the Grand Jury. Very often, since	I
	23	was his attorney on the homicide, the attorney would be	
	24	notified to appear in Part 30 on such and such a date and	
	25	usually they would send out notices a day before or call you	ou

144 Domanti - cross DeSa1 1 the day before. I appeared in Part 30, I believe, when he entered the not guilty plea. 3 Isn't it a fact prior to the arraignment you had never discussed the robbery case with Mr. Ramsey? 5 I don't remember that I knew about it. 6 Isn't it a fact you knew about it shortly after it 7 Q was filed in Part 30 on the third of November but that you 8 waited for a period of over 25 days before ever informing 9 Mr. Ramsey of this fact that he was charged with robbery in the 10 first degree which carried a sentence of 25 years, that you 11 waited 25 days before you told him about this minor incident 12 13 that he was charged with? 14 I don't remember that. What is your recollection as to when you told him? 15 Either when I appeared in court or when I visited. 16 17 I don': remember. I know he had made reference to it at some 18 point in the statement that he wrote. Petitioner's 1? 19 Right. I don't even remember the date when he 20 21 gave me that. 22 THE WITNESS: May I go into this, your Honor? 23 THE COURT: You not only may but you should. Let's 24 not be coy any more. There are no privileges here and I 25 would like to get at the truth. Please just go into everything.

THE WITNESS: There was something in that statement with respect to a rape charge and Donald wrote that the girl who allegedly was raped wanted to go down Avenue D, and he didn't want to be seen with her or whatever on Avenue D in the liquor store to buy some liquor because he had read about a robbery three weeks ago, or that there was something about a robbery in the papers three weeks ago, and he might be identified, something to that effect. It is in the statement.

Q Isn't it a fact, Mr. Domanti, that Exhibit 1, which you claim is a transcription of a written statement from Donald Ramsey, was -- actually, I guess what is it the fact? What is your best understanding as to when you got the written statement?

A I really don't remember. I told him to write it and he wrote it. I don't think he delivered it to me all at once, as a matter of fact. Now that I'm thinking back that might be so.

Q Who is Adele, or A-D-E-L-E A-L-E-P-R-E-M-I, who is that?

A I believe that is the name Donald was using as part of his association with the Arruba movement.

- Q He was going by the name Adele?
- A Adelaide or something like that.
- He wasn't going by the name of Mchezo but rather by

Adele?

DeSa1

A I believe. I'm sure it is translatable but I'm not familiar with that language.

Q It is your testimony that that's the name Mr. Ramsey was using?

A It was on the top of the page and it was typed exactly as it was on top of the written page.

Q On page 23 on the top, "When Fred Lee opened the door he called me by my name, Mchezo." Would that in any way change your prior answer that that wasn't the name of Donald Ramsey?

A I don't know. I haven't read this document in years.

Q To get back to the robbery indictment, I think we have established that the indictment was filed on the 3rd of November and that the arraignment was on the 28th of November, 25 days later. Do you have any recollection of ever discussing the robbery indictment with Mr. Ramsey during that 25 day period?

A Let me say this: Very often in the Criminal Court in the Supreme Court of the State of New York when an indictment of that type is filed no one is notified immediately. A date is set down for arraignment on the indictment and then the attorney is notified, and if the defendant is incarcerated

he is merely produced in court on the arraignment date.

This was not a case which originated in the Criminal Court where if a case were held for the Grand Jury or if a case were waived to the Grand Jury an attorney could keep track of it and check how long it is taking for the people to present it or if a defendant desires to testify before the Grand Jury a notice would be sent to the foreman of the Grand Jury and the District Attorney's office.

In this situation the indictment was filed. I don't know when I actually learned of it. I may not have learned of it until he was arraigned on it because they don't tell you when they file it, we file an indictment against Donald Ramsey. They look at their calendar and put it down for Part 30.

Q How do you get to the arraignment if you don't know about it?

A They send you a notice in the mail or call you one or two days prior.

C So I gather then it is your present recollection that what happened was the indictment was filed on the 3rd but you received telephonic or written notice a couple of days before and appeared in Part 30 and that was the first time you had an opportunity to even find out what it was about?

. 4: .A

Yes.

Domanti - cross

Q Okay.

DeSa1

A I know they do that.

Q That's your testimony as to what happened and that actually you didn't see the indictment until the same time that Mr. Ramsey was arraigned and pleaded not guilty. Is that correct?

A That is possible. The filing of the indictment merely means that the foreman of the Grand Jury walked into Part 36 one morning or one afternoon and advised the judge, because it is secret, until the defendants have been apprehended, that Donald Ramsey or X or Y has been indicted. We are filing this indictment. The District Attorney's office then takes that indictment. If it is in the nature of a secret indictment, which this was, there having been no arrest initially, they will wait and see, well, do we have Ramsey? Do we have the co-defendant? Is there anyone else involved? Then after the defendants have been apprehended or they know that they are in custody, at that point they will notify an attorney or they will set a date for the arraignment.

If the defendant does not have an attorney Legal Aid will represent him at that arraignment.

Q I understand that but we are trying to get at this case and not the general practices of the Supreme Court at that time. I gather it is your testimony that what happened

DeSa1 Domanti - cross 149 was that you received a call or a post card informing you to be in Part 30 on the 28th for this arraignment, and that you 3 went there, and at that time advised Mr. Ramsey to enter a plea of not guilty, which he did? 5 A Yes. 6 Is that correct? 7 O To the best of my recollection, yes. 9 That is your best recollection as to what actually Q 10 happened. Is that correct? 11 Yes, I am going on the assumption that the regular 12 course that is followed in other cases when indictments are 13 filed were followed in this case. 14 We don't want assumptions. We want your recollec-15 tion of the facts. Is that your recollection of what happened? 16 No. I don't remember that happening exactly. 17 I'm assuming that it happened. 18 you have no recollection of discussing Well. 19 the case with Mr. Ramsey prior to appearing in Part 30. Is 20 that correct? 21 I may have. I don't know. I don't remember. 22 discussed many things with Mr. Ramsey, the homicide case, the 23 rape case and many times when I visited I don't know whether 24 I learned of this prior thereto. I don't see how I could have 25 possibly learned of it prior to the date it was filed. After

150 Domanti - cross DeSa1 it was filed I don't know if I was notified by anyone that Mr. Ramsey had been indicted on a robbery charge. I don't 3 know whether I learned of that for the first time when I received the notice in the mail or when I received the call 5 to be in Part 30, that Donald was going to be arraigned in Part 30 on a new charge. 7 You received the call or notice; did you go down to the court and get a copy of the indictment or get a copy 9 from the D.A. so you would know how to plead at the arraign-10 ment? 11 I don't remember. 12 You can't recall? 13 14 No. Isn't it a fact all during this period of mid 15 November to late November you were in fact aware of the 16 robbery case and in fact were taking steps to represent Mr. 17 Ramsey in connection with it? 18 I really don't remember. 19 You don't remember that either? 20 21 No. I really don't know what your recollection is. The 22 23 record is unclear --THE COURT: Just ask him questions. 24 What is your final recollection as to the sequence 25

1 DeSal

Domanti - cross

of events that led up to the plea of not guilty on the 30th?

homicide case. I represented him on that case. At some point

My recollection is that Donald was arrested on a

.

thereafter an indictment was filed by the Grand Jury charging Mr. Rawsey with a robbery. I appeared at an arraignment. He pleaded not guilty to the robbery charge and we started to work on that. That's my recollection. Dates, the time span, it is very difficult. I just can't recall it.

Q The record will show that the indictment was filed the third. I showed you that in Exhibit 1. The record will

also show that the plea of not guilty was entered on the 28th.

A No. I can't recall whether I did or didn't with respect to the robbery. I just don't know. I just don't remember. Honest, I just don't.

I take it you can't recall any communication with Ramsey in

Q It's your testimony that the first step you took in the way of any formal appearance or filing of documents, et cetera, was going into Part 30 on the 28th and representing him when he pleaded not guilty to this indictment. Is that correct?

A I'm pretty sure I was there on that date when he pleaded not guilty. Whether I knew of the indictment prior thereto. I don't know.

1	DeSal Domanti - cross 152
2	Q That is not my question. Did you take any formal
	step in connection with your representation of Ramsey that
3	
4	you can recall prior to the 28th?
5	A I don't remember, except that I was representing
6	him on the homicide.
7	Q You have no records, I take it, in your office; all
8	you had was this transcription that's been marked as Exhibit
9	2 and rothing else about this case?
10	A That's all I could find.
11	Q You don't keep diary records, time records?
12	A I had at the time but I just can't locate them. I
13	moved two or three times since then.
14	Q Was it your practice at that time to keep track of
15	court appointments and your time?
· 16	A Yes not my time, no. Court appointments.
17	Q Those records are not existent today?
18	A I just can't find them.
19	Q Do you recall having a conference last summer on
20	June 15 at my office at One Chase Manhattan Plaza with Mrs.
21	McMeer and another girl and myself in connection with this
22	case?
23	A Yes.
24	Q Do you recall that that lasted about an hour and a
25	half, two hours?

the back.

Q You have no file entitled Donald Ramsey?

A I had three or four. I just can't find them. I remember I had taken some old files and packed them away in boxes, cardboard boxes and I thought that they might have been there. Since that time I have moved. I looked and looked and I just couldn't find anything.

Q Given the fact that Ramsey filed a coram nobis about the quality of your representation back after he was sentenced on this case, and that writ was granted, and the fact that there were appeals going on at that time, and subsequently in the State courts, wouldn't it have been the better part of good judgment to keep those records very carefully preserved so that in the event that an event fike today took place you would have documentation as to what happened?

A Probably would have but even at that time I looked and couldn't locate anything. I merely submitted an affidavit to Mr. Rothwax who was the attorney.

Q Prior to today in this proceeding and the coram nobis that Harold Rothwax handled, has there been any other case in which you have been involved where the quality of the legal representation that you gave was ever challenged by any of your clients?

25 No.

	DeSal Domanti - cross 155
1	besar
2	Q You have never been subject to any other coram nobis
3	proceedings or habeas corpuses in which your representa-
4	tion was challenged?
5	A No.
6	Q This is the first one?
7.	A Yes.
8	Q Have you ever been involved in any type of
9	disciplinary proceeding by the Appellate Division or the
10	Association of the Bar or the County Lawyers Association or
11	any such organization?
12	A Yes.
13	Q Would you tell us what that might have been?
14	A Well, basically it involved two cases in this
15	court where I failed to appear on some occasions and there was
16	a matter with a negligence action where the plaintiff claimed
17	that I didn't pursue his law suit and a hearing was held.
18	Q In what department was that?
19	A First Department.
20	Q Appellate Division, First Department?
21	A No, at the Bar Association.
22	Q By the Grievance Committee?
23	A Yes.
24	Q Mr. Bonami was counsel for the Grievance Committee
25	Yes.

1	DeSal Domanti - cross 156
2	Q What happened at that proceeding?
3	A They admonished me, I believe.
4	Q What year was that?
5	A I don't remember.
6	Q Was it before Ramsey's case or after?
7	A After.
8	Q After he was convicted?
9	A Yes.
10	Q And what was the nature of the complaint that they
11	admonished you with respect to?
12	A Well, there was one situation I believe involving
13	Judge Pollack where a defendant was of age at that time to
14	receive, under the Federal Act, the youthful offender type
15	treatment, but at the trial the defendant did not want to take
16	a plea. He wanted to go to trial and the trial began after
17	he was over the age. But the indictment and other papers
18	reflected the defendant's age. Unfortunately by the time of
19	the trial he was too old to be eligible for that.
20	There was another case where I believe my father
21	was in the hospital and I did not appear on the sentence.
22	Q What happened?
23	A Well, it was a sentence or a trial. Now I remember
24	I was on trial in a drunk case in New York County before Judge
25	Gellinoff and we had marked a date for trial in this court.

Domanti - cross

I believe it was before Judge Metzner and that trial was to begin on a Monday. When we began the trial in the State court we were sure that it would be over prior to that. Unfortunately, Justice Gellinoff became ill in the interim and we lost about three days. I thought we could still finish. When I realized we couldn't I sent a telegram to the U. S. Attorney, Assistant, I don't remember his name, advising him of that fact. On the following Monday at 3:30 in the afternoon while we were still conducting the trial on the State case, two Federal Marshals came in and arrested me.

- Q Arrested you?
- A Yes.

De Sal

Q And what happened?

A Brought me over here on some kind of a contempt.

Judge Metzner was not in the building and one of the other judges paroled me until the following morning. I came in the following morning and he dismissed the contempt.

- Q What judge?
- A I believe it was Metzner.
- Q The following morning?
- A Yes.
- Q He arrested you one day and dismissed it the next day?
 - A Yes. He had me brought over to the courthouse.

. . 4: Ja

25

Q What is your best recollection as to when that disciptinary hearing or proceeding was held?

1	
1	DeSal Domanti - cross 159
2	A About two or three years ago.
3	Q And were you represented by counsel?
4	A Yes.
5	Q Who was your counsel?
6	A Aaron Jaffee.
7	Q Have you ever made application to appear on a
8	panel of assigned Appellate Division counsel in either the
9	First or Second Department?
10	A No.
11	Q You haven't?
12	A I have not.
13	Q Never did. Ever made application to be on the
14	Assigned Indigent Panel either in the Southern District or the
15	Second District?
16	A No.
17	Q Have you ever been assigned by any court to represent
18	an indigent criminal defendant?
19	A Yes, but only in court if I happen to be there and
20	there might have been just for purposes of a preliminary
21	hearing or an arraignment where there might have been two
22	defendants and a conflict might have been involved between
23	Legal Aid or two Legal Aid attorneys. Legal Aid being one
24	society, where a judge may have asked me to step up and dis-
25	cuss the matter with him and hold a hearing because they didn't

Domanti - cross DeSa1 161 1 to do it for nothing? 2 No, I did not. 3 You didn't say anything of that kind in words or substance, not necessarily those words but that what you 5 6 were interested in was simply the publicity and the fame that 7 would arise out of being involved with such a famous, well 8 publicized case? 9 No. In fact I think I may have mentioned to him 10 that I was having problems, people giving me dirty looks 11 because I was representing him. 12 Q We are talking about your initial visit and it 13 would be hard to get dirty looks since you hadn't been retained. 14 On my initial visit I asked him about the case, and 15 he at that time convinced me that he was innocent in that 16 initia: interview, and he was being taken advantage of because 17 he was tlack, and because he was a member of the Arruba move-18 ment, and I believed him. 19 I gather you never told him in that first visit or 20 any subsequent visit that you were somewhat inexperienced, had 21 never in fact handled any case this serious where the client 22 was facing a life sentence? 23 No.

Q You never told him anything like that?

25

No, I did not.

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Q In fact I gather you gave him the impression that
you were an accomplished criminal lawyer and fully qualified
to represent him on all three of his cases, and there would

be absolutely no problem about your capabilities?

A No, I didn't exactly tell him that either. I told him that I represented a lot of people in the Village, and was familia: with a lot of people, and knew them, and they trusted me, and they understood me, and I understood them. We had a very, very good rapport. Our initial meetings and in most of our meetings thereafter.

Q Isn't it a fact you were aware Mr. Ramsey was indiger: when he was arrested on the homicide case?

A Yes.

Q Wasn't it also a fact he was very scared and very unfamiliar with the courts and he needed counsel and he was relying on your representations to him that you were fully qualified and competent and experienced enough to represent him in a professional way on all three of these cases?

A Well, on the initial meeting there was only one case.

Q Well, eventually there turned out to be three cases.

A Yes. He agreed that I should represent him on the others thereafter.

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Q Actually, weren't you really using Mr. Ramsey to further your own personal cause, namely your own reputation as a criminal defense lawyer in New York City and that if you should be successful in the Fitzpatrick Hutchinson homicide case, that you would have it made from then on as a defense lawyer?

A No.

Q It's true, I gather, as has been read into the record by counsel for the respondent a few moments ago, that you had not seen Mr. Ramsey for three weeks before you put him on the stand for his direct testimony at the robbery trial?

A I really don't remember.

Q Well, if you want I will reread the passage to you.

A I was sure I had seen him either the night before or the night before that.

Q The next question was whether or not you had gone over the testimony with Mr. Ramsey the night between the direct examination and the cross examination and the answer to that question was no. Those were the first two questions you put to him when you started redirect.

A Yes.

Q So I take it his answers were correct, he was telling the court what you had wanted to elicit from him?

They may not have been.

1	DeSal Domanti - cross 164	
2	Q You are now saying that maybe those first two	
3	questions on redirect brought untruthful answers from Mr.	
4	Ramsey?	
- 5	A I don't remember. I don't know. It was seven	
6	years ago.	
7	Q Well, this all happened seven years ago, everything	
8	that's being testified to.	
9	A I'm trying to remember as best I can.	
10	Q Do you have any reason to believe that those	
11	answers that were read to you a few moments ago are untruthful	7
12	A Not really except that I'm pretty sure I did visit	
13	him just prior to the trial but, again, I don't remember.	
14	MR. LEVIT: Your Honor, would this be an appropriat	e
15	time to take an afternoon recess for a few minutes? I can	
· 16	keep going but I don't know what is best for the Court.	
17	THE COURT: I'd like you to try to finish your	
18	cross.	
19	MR. LEVIT: I'll finish this afternoon, but I don't	:
20	know what your schedule is.	
21	THE COURT: I'm telling you now, why don't you	
22	proceed.	
23	Q Do I understand correctly that you never at any	
24	time had a conference with Mr. Freedman who represented Mr.	
25	Leek?	

1	DeSal Domanti - cross 165
2	A Not a conference. I used to see him in court.
3	Q But no discussion about joint strategy with
4	respect to representing Randolph Leek and Donald Ramsey on
5	this robbery case?
6	A No.
7	Q No?
8	A No, I don't recall whether I did.
9	Q In fact you never had any telephone conversations
10	with him either, did you, about planning any kind of a joint
11	defense in this case?
12	A Not initially, no.
13	Q What about after initially?
14	A After that his client was no longer in the case.
15	Q In other words, his client was dismissed from the
16	case before Donald Ramsey went to trial?
17	A I believe so, or at least they held back.
18	Q Isn't it a fact that he actually wasn't dismissed
19	until February of 1969?
20	A That's possible, but he was not prosecuted either.
21	Q I think everybody can agree that the record shows
22	that only Donald Ramsey stood trial in February and March of
23	1968, but I gather that after the arraignment you had no con-
24	tact with Mr. Freedman about planning the defense of the case
25	A Well, I had seen him after that. I don't recall

DeSa1 Domanti - cross 166 that he was at the arraignment originally. 2 3 So, in other words, you might not have discussed it at any time with him? I don't know. I'm trying to recollect now. I 5 think that at the original arraignment I believe they arraigned 6 7 Mr. Ramsey alone. They kind of blotted out Mr. Leek's name on 8 my copy of the indictment, apparently because they had not 9 apprehended him yet or for whatever reason. 10 I think the copy of the indictment that has been 11 marked as an exhibit in this case is the one that's on file 12 in the Supreme Court and it doesn't show that anything is 13 blocked out. 14 On the copies they gave me. Apparently when they had arraigned him apparently they had not arraigned Mr. Leek 15 16 and I believe it's illegal to divulge that an individual has 17 been indicted in this type of situation until he was apprehended. 18 Isn't it a fact once the indictment is filed and 19 the defendant pleads to it, that then it is a public document? 20 With respect to Donald because Donald was in custody. 21 I don't know that Mr. Leek was at that time. 22 So, in other words, it is your testimony that every-23 where, including the caption at the back, that the name Leek 24 appears it was xed out of the copy that you had? 25 I have that recollection now. I don't think Mr.

Freedman or Mr. Leek were in court on the day that Donald

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I believe you are correct on that point, that they were not in court on that day, but my questions were really going to any communications you had at any time that you had

I didn't have any communication with him on that day. He wasn't there. Later in court appearances we did discuss certain things.

You didn't discuss his making the Wade motion before you made it?

No.

was arraigned on the robbery.

with Mr. Freedman about strategy.

On your initial discussion with Mr. Ramsey about the robbery at the Tombs that you have testified to on direct examination, after you were aware there was a robbery case you had a discussion with Mr. Ramsey about it and he told you about the facts; do you remember that?

Yes.

Isn't it accurate that he told you there was a fellow named James Reed who lived across the street from the liquor store who would be able to testify about a fist fight Mr. Ramsey had a year earlier with Mr. Roman and he told you how you could locate Mr. Reed?

I don't recall that. I remember the name Reed but

I don't recall in what context.

- Q Isn't it a fact you did make contact with Mr. Reed and he was prepared to testify but that at the time he was needed furing the trial he had to go to a family funeral and that as a result you didn't ask for an adjournment and no Mr. Reed appeared to testify; isn't that in fact what happened?
 - A I don't remember.
- Q Don't you recall telling Mrs. McMeen and myself in our office last summer that you had spoken with Mr. Reed?

A I said I remember speaking to a Mr. Reed but I don't remember what about at this point.

- Q Does that ring any bells, that he lived across the street from the liquor store and he had saw the fight with Jose Roman and during your examination of Roman and Ramsey you asked questions about this fight with James Reed?
 - A Yes.
 - Q That rings a bell, doesn't it?
 - A That rings a bell.
- Q Isn't it true that Mr. Reed was available and would have testified had you sought an adjournment to make him available, but that one time he was told to be in court he had a funeral and couldn't appear?
- A I don't recall. I do recall generally that I had a lot of problems with witnesses. People who contacted me and

1	DeSal Domanti - cross 169
2	said they would be in court and when I tried to reach them in
3	court, I could not. They would disappear on me. It was very
4	very difficult. I don't recall specifically why Reed was not
5	in court, whether he went to a family funeral, or whether I
6	tried to reach him or I was unable to or whether I knew how
7	to reach him at that point, whether he was still living at
8	the same address, if I ever had the address.
9	Q What if I told you he still lives at the same
10	address today, he is still there?
11	A I would take your word for it.
12	Q Didn't you tell us last summer in fact you had
13	spoken with him?
14	A Yes, at that time I recall an individual by the
15	name of Reed and I recall speaking with him.
16	Q And he was preparing to testify?
17	A I don't recall telling you that.
18	Q But that he was unable to testify on the specific
19	time he was told to by you because of a family commitment?
20	A I don't know whether he told me that or you cold
21	me, that.
22	Q You can't recall that. It is correct though at the
23	trial you never requested to see the Grand Jury testimony of
4	either Mr. Epstein or Mr. Roman, although you had a right
5	under New York State law to review that once they had complete

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their direct testimony?

A That's true.

Q Why was it you didn't ask to see the Grand Jury testimony, was it because you had never been in a trial in a supreme court and didn't know because in Criminal Court they don't have Grand Jury testimony, that this was a right you had, namely to look at the prior statement to see if there were any inconsistencies in their testimony?

A I knew at the time that I had a right to see them but I don't know why I didn't.

Q You didn't ask for them, that's clear.

A I know that.

a motion for a Wade hearing or in fact even joining in the motion of Mr. Freedman, that you could have done without even filing any papers at that time in Supreme Court, New York County, you didn't have to make a motion on papers at that time, did you, if you wanted a Wade hearing, you would simply ask for it and they would grant it?

A Usually, yes.

Q You didn't have to draft a single paper to get a Wade hearing.

A I guess it would vary with the judge.

Q Certainly with Judge Murtaugh who was the judge on

	Dose1 Domenti - cross 171
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2	this occasion, it would not have been necessary at the trial
3	even to ask for a Wade hearing?
4	A Probably not, I really don't know.
5	Q Isn't that a fact?
6	A I don't think Judge Murtaugh would have insisted.
7	I know with the Legal Aid attorneys they waive papers.
8	Q They would have waived it as to you if you would
9	have asked?
10	A Probably.
11	Q Particularly when Mr. Freedman filed papers you
12	simply could have joined in his papers?
13	A Correct.
14	Q Now, in addition to failing to take that rather
15	step that you did not make one single objection to
16	the identification testimony given by either Mr. Roman or Mr.
17	Epstein, that you let it all in without objection failing to
18	protect the road for appeal. isn't that a fact?
19	A That is true.
20	Q Why was it that you didn't take that rather rudi-
21	mentary step just as a knee jerk action of just objecting to
22	the admissibility of that testimony even if it was a baseless
23	objection, at least you would preserve those points for appeal
24	MR. SPIEGEL: Which testimony are you talking about
25	MR. LEVIT: Direct testimony of Mr. Roman and Mr.

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Domanti - cross

172

Epstein with respect to identifying Mr. Ramsey as being present at the liquor store on the night of the robbery.

There are no objections, he admits, as to the admission of that time.

Q I'm asking you why you didn't take that simple precaution?

A I don't know.

Q Isn't part of the reason why you failed to do that because you had never had a heavy case like this before that was going to go up to the Appellate Division and the Court of Appeals in the Criminal Court? In the Criminal Court most cases are not appealed and the ones that are go to the Appellate Term which is quite a different ball game than the Appellate Division; isn't that the reason why you weren't conditioned to protecting the record for appeal purposes and that's one of your main jobs in Supreme Court as opposed to Criminal Court.

A I think at that time I was hopeful that Donald would have been acquitted.

Q There was no need to protect the record because you were confident he was going to be acquitted?

A I was not confident but that was my thought.

Q That was your thought despite the fact you had these problems in getting Reed and Kibogoyo, all these people,

1	DeSal Domanti - cross 173
2	despite that Mrs. Ramsey was going to be a terrible witness
3	and so bad you were going to use her, you were confident by
4	putting Donald Ramsey on the stand you would beat the People's
5	case?
6	
7	and the country in th
	checks in that store.
8	Q Isn't it a fact that at the time Epstein and
9	Roman cook the stand and testified you didn't have the checks?
10	A They were produced.
11	Q Well, they were produced, the record will indicate,
12	after that, so that you didn't know you were going to have
13	thos M.Y.Y. checks.
14	A I knew they were in existence.
15	Q You didn't take any steps to get them, did you?
16	A Yes.
17	Q I thought you testified earlier that Mrs. Ramsey
18	got them.
19	A She knew the people and they had to search their
20	records to find these and they were found. That was part of
21	the trial. I didn't know they were going to testify that at
22	the time Donald cashed the checks different people were work-
23	ing in the store, or at least a different shift.
24	Q I don't follow that.
25	A Apparently there was some testimony later, I believe,

	- 11	
1		DeSal Domanti - cross 174
2	:	that aithough Donald had cashed checks in the store the people
3	,	that he cashed them with were not the people or the employees
4	.	who were working in the evening. It was a day employee. It
5	,	is vague in my mind but I think that came up.
6	,	Q Wasn't it rather clear if Donald cashed M.F.Y.
7	,	checks anywhere, that M.F.Y. would get the checks back with
8	3	the bank statement and all that had to be done was to get them?
9	,	A We got them.
10	,	Q You relied on Mrs. Ramsey to get them, didn't you?
11	ı	A She got them.
12	2	Q Isn't it a fact she didn't get them until after
13	3	the People's case was over?
14	4	A No. I don't remember that.
15	5	Q Well, well, it's my understanding
16	6	THE COURT: Don't tell us your understanding. Just
17	7	ask questions.
18	8	MR. LEVIT: One of the problems there is a record
19	9	we have. It is not like we are operating in the dark. There
20	0	is prior testimony.
2	1	THE COURT: Don't repeat the prior testimony. If
2	2	you are entitled to rely on it, you may, but don't give us
2	3	your understanding. That can't help us.
2	4	Let's complete the cross examination of this wit-
2	5	ness. If you are going to read me other testimony, I don't

Domanti - cross DeSa1 1 I heard he was an Assistant D.A. and was pretty good. 2 Nobody came up to me and said he had a formidable reputation. 3 Didn't he turn out to be a formidable adversary in the courcroom, his style and way of handling things? 5 He certainly was. Let's go to your earlier testimony about the 7 publicity, and so forth, which surrounded Mr. Ramsey's arrest 8 on the homicide. Is it your testimony that you never initiated 9 any conversation with any representative of the media, the 10 press, the television or radio with respect to Donald Ramsey? 11 12 That's correct. You never contacted either face to face or on the 13 14 telephone or by letter anybody from the media? 15 No. I don't believe so. Didn't you introduce Mrs. Ramsey at one point to a 16 17 New York Post reporter? 18 Yes. 19 Who was that? Q 20 I believe his name was John Garabedian. 21 What was the purpose of introducing her to him? Q 22 John came to my office and told me he was doing a 23 book on hippies. He said he was very interested in the Ramsey

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case. He said at some point he would like to write about it.

He asked me -- he told me he would like to meet Donald's wife

22 23

and his mother. I asked him why. He said he would like to meet them and see what kind of people they were. I told him they were very nice. I asked them if they would meet him and they said yes. I just introduced them.

Q That was prior to the robbery trial taking place.

Is that right?

A I believe so.

Q Isn't it a fact during the robbery trial Mr.

Garabecian published articles in the New York Post about the robbery trial?

A Yes.

Q It is your testimony that you had nothing to do with communicating with Mr. Garabedian during the trial and giving him your views or information about how the trial was going, the fact that it was Donald Ramsey, known for the Fitzpatrick Hutchinson homicides?

A No, Mr. Garabedian took it upon himself to come to court every day during the trial and he was there. At one point we discussed it at the bench. I asked Judge Murtaugh if it was possible to exclude him.

Q Actually isn't it a fact, although unfortunately some of the bench conferences or most of the trial at the trial were off the record, I gather because you didn't request they be on the record, but nevertheless Mr. Fierro was quite

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Domanti - cross

Judge Murtaugh's attention in part on the record and that he was concerned about he was of the view that you had been speaking to Mr. Garabedian? I say this does not all appear in the trial transcript but is that not in fact what happened?

A Yes, but not about the case. I didn't discuss with Mr. Garabedian what was happening in court. Mr. Garabedian was sitting there. I certainly could not ask him to leave.

Q That's not my question. Wasn't Mr. Fierro very concerned about the possibility of a mistrial or reversible error on appeal because of that fact that you had been communicating with Mr. Garabedian on recesses or at some point during the trial and that this doesn't all appear on the record, but there are admonitions on the record by Judge Murtaugh about this?

A Well, Mr. Fierro was concerned about the reporter being in court and when we approached the bench I asked Judge Murtaugh if it were possible to exclude him. I could not ask him to leave.

- Q Didn't you realize that it was a public trial and Mr. Garapedian had a right to be there?
 - A Well, judges have since that time excluded re porters.
- Q But any way it is your testimony that Mr. Fierro was not concerned about these matters?

Isn't it a fact in Supreme Court in New York County

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Domanti - cross

at that time and I think the reporter will come up to the side bar with the attorneys and the judge and there will be a side bar conference on the record out of the hearing of the jury?

A Not that often.

never had a jury trial before that you didn't realize that in order to fully protect the record that you should request, and though requests were granted as a matter of course, that the voir dire examination should be taken down stenographically, not necessarily reproduced but taken down so that in the event an issue arose later about the voir dire it would be in existence and could be reproduced; isn't it a fact you didn't make that request?

A I didn't make the request.

Q Isn't that because you didn't know that was something that was done as a matter of course in felony trials, not in misdemeanor cases because there were no juries, but in Supreme Court, upstairs, criminal defense lawyers just did that as a matter of course; it didn't cost them any money or anything, but they asked to have the voir dire examination taken down and you didn't do that?

A I did not request it.

That was because you didn't know that you should

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	DeSa1	Domanti - cross	181
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2	have reque	sted it. Isn't that right?	
3	A	That I should have?	
4	Q	Yes.	
5	A	Well, I didn't know that I should have.	
6	Q	What about today, what is your practice with	
7	respec'. to	the voir dire?	
8	. A	On occasion I'll ask for it.	
9	Q	But not as a matter of course?	
10	A	No.	
11	Q	It's a fact, though, that if you ask for it t	hey
12	will take	it down?	
13	A	Yes.	
14	Q	This morning you mentioned an individual name	d
15	Bobbi Dodd	and you said she was present in Supreme Court	on
16	the day you	u had a conference I believe in a courtroom wh	ere
17	Ramsey's c	ase was on the calendar about this person poss	ibly
18	testifying	. Is that correct?	
19	Α	Yes.	
20	0	I gather Bobbi Dodd is the person who is here	and
21	who is going	ng to testify after you?	
2	A	Yes.	
23	Q	And who is Bobbi Dodd?	
4	A	Bobbi Dodd was a young lady that I dated for	
5	- approximate	ely a year and a half or two years and she use	d to

1	DeSal	Domanti - cross	182
2	come to the	office almost every day, do typing f	or me and we
3	almost read	thed the point where we were married.	But she
4	helped me.	She was sort of an employee but unsa	laried.
5	.Q	Was it your practice for her to come	to court with
6	you?		
7	A	Yes, particularly when I had other ma	tters on the
8	calendar.		
9	Q	Why was that, to cover on the parts?	,
10	A	Yes.	
11	Q	She would say Mr. Domanti is engaged	in Part 30?
12	A	Yes, or she would tell the defendant	s where I was
13	because ve	ry often defendants arive late.	
14	Q	Did she attend the Ramsey trial?	
15	A	I believe so.	
16	d	What?	
17	A	I believe so.	
18	Q	Isn't it a fact when you met with me	last summer
19	you never	mentioned Bobbi Dodd and you went int	o great detail
20	about ever	ything but not her? In fact you even	told us about
21	this incid	dent in the courtroom where you did to	lk to this one
22	potential	witness and basically said what you s	aid today, tha
23	you were	concerned with possible perjury and you	ou rejected
24	that pers	on as a witness. You did tell us that	but you didn'
25	mention B	obbi Dodd, did you?	

Domanti - cross

A No, not for any particular reason but she was there almost all the time with me.

- Q You didn't tell Mrs. McMeen and myself last summer that Dodd was present at this alleged conversation, did you?
 - A No. You never asked me was anyone else present.
- Q I think you will recall that it was my understanding and I tried to make it clear to you that you were coming
 in voluntarily but I wanted you to tell me to the best of
 your recollection and knowledge everything you knew about the
 case, and you came in on that basis, and you went down the
 affidavit and other documents, and you were there a considerable period of time, and told us everything you could remember
 - A Yes.
 - Q But you couldn't remember Bobbi Dodd?
 - A I wasn't asked about her.
 - Q You could remember but you didn't answer that?
- A I remember her being there. She was in court with me almost every day.
- Are you holding back some information today that might be relevant to my questions because you read my questions differently? In other words, when I asked you about the conversation in the courtroom you told me everything but there was no Bobbi Dodd in there because I didn't specifically ask for it?

DeSa1 1 Domanti - cross 184 No. On some other days there might have been 2 other people present when I spoke to Mr. Ramsey's wife but 3 I didn't go into that either. Q Isn't it correct that starting around December 5 leading up to the time of the trial that your visits started 6 7 to become less frequent with Mr. Ramsey; you saw him a lot in 8 the fall, October and November and then December it got less 9 and in January almost nonexistent, and February just several 10 visits, as you testified, and in fact as Mr. Ramsey has indicated just several visits in February? 11 12 I don't remember. It is possible. 13 Isn't it also correct that Mr. Ramsey was very 14 concerned about the fact that you weren't coming to see him, 15 and you would break dates at the Tombs, and he was expecting 16 you, and you wouldn't come? 17 No. Maybe once or twice, once I got tied up. A 18 I gather you only saw him once in January? Q 19 A Possibly. 20 You only saw him --Q 21 A I don't remember. 22 You only saw him several times in February, didn't Q 23 you? 24 Yes. 25 Despite the fact there was a four or five day trial DeSa1

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 that took place at the end of the month, you only saw him several times and I think the record would indicate you didn't see him the last three weeks before the trial. Is that correct?

A I believe so. I don't remember whether I did or not.

Q Why was it that although you rested Ramsey's case at 11:57 in the morning on February 29 that you didn't ask for an adjournment at least through the lunch hour, if not the whole day, to try to find Mr. Reed or anybody else that might be helpful; why is it that you allowed the People to go right ahead and put on their rebuttal case without at least, for purposes of the record, requesting that adjournment because in fact there was a request for an adjournment by the People that was granted very early in the afternoon one day where the judge said okay. Why was it you didn't ask for an adjournment?

A I don't know. I guess I felt at that point there was nothing to be gained. Where would I look? One witness had approached me in the hallway and told me that I'll testify if I have to but I'd rather not. When I asked him if he thought he would be committing perjury if he did, he said, well, and he took off.

G Isn't it a fact during the trial you were trying to get Mrs. Ramsey to locate these other people to come in and

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Domanti - cross

testify?

A Yes.

Q Isn't it a fact you didn't tell her until the day Donald started his direct testimony that you really wanted these people and that she did try but that there was very little of the case left, and because you didn't ask for an adjournment in the little time available, at that point she couldn't do anything?

A I asked her from the very beginning for at least the names of these people and addresses and ways I could contact them. That was never forthcoming. I asked her if she could find them. She said they were friends, she knew what they looked like, people knew who they were. Over and over and over again and finally they did produce one individual and I told you what happened with him.

Q But, in other words, it didn't occur to you that it might be at least desirable as a tactic to at least ask Judge Murtaugh at 11:57 a.m. if he would give you an adjournment until three o'clock or to the next morning because you were trying to get witnesses, and if he denied it you could argue that you thought it were appropriate on appeal. But I gather you rejected it as not being a fruitful course?

A I didn't know where I or anyone would go to locate these people because we had no information on them. I didn't

1	DeSal Domanti - cross 187
2	even have a name.
3	Q But you were having Barbara Ramsey trying to do
4	this right up to Donald's testimony, didn't you?
5	A That's correct.
6	Q She told you she needed more time?
7	A She said she couldn't locate anyone.
8	Q She said they didn't answer the phone at that time
9	and if you gave her more time she could be successful.
10	A She never mentioned about a phone. She tried to
11	contact them previously.
12	Q Isn't it a fact when you met with us last summer
13	you toid us a different version, namely what I put in my
14	questions to you, that she was actively trying during Donald'
15	direct case but they weren't home and if given a little more
16	·time she thought she could be successful?
17	A She said she was trying to get to them and she
18	couldn't. She had been trying to get them for quite a while
19	during this whole period, not just the day of the trial or
20	the day before. But for quite a long time.
21	Q Isn't it a fact that you did not make any efforts
22	to interview either Mr. Epstein or Mr. Roman?
23	A I don't remember. I may have sent someone.
24	Q You didn't of course, did you?
25	No. ·

1	DeSal Domanti - cross 188
2	Q Never took that step?
3	A No.
4	Q Never attempted to talk to the police officers
5	involved, did you?
6	A No.
7	Q You never looked at the police records that were
8	in the courtroom in Mr. Fierro's files although you had a
9	right under the law to see all that in connection with his
10	arrest; you didn't ask to see those, did you?
11	A I believe he may have let me look at them.
12	Q But you didn't?
13	A Yes. I recall looking at some of his papers but
14	I don't recall exactly what.
15	Q You know you didn't look at the Grand Jury testimony
. 16	and I think you indicated last summer that you didn't look at
17	the police records either, did you?
18	A I don't remember indicating that last summer. As
19	far as interviewing the police officers, I understand that
20	they are instructed not to discuss these matters with defense
21	counsel.
22	Q You are free to talk to him if you want to and at
23	least get turned down, right?
24	A Well, I don't know whether that's ethical, talking
25	to the rolice officers.

1	DeSal Domanti - cross 189
2	Q Well, there is nothing unethical about talking to
3	Mr. Epstein or Mr. Roman, is there?
4	A That's all been a question in my mind. A complain-
5	ant I will talk to but not a police officer.
6	Q How about a witness?
7	A Yes.
8	Q Aren't police officers just witnesses?
9	A They are police officers.
10	MR. LEVIT: I will be finished in just a few
1	moments.
12	Q I gather that you didn't make any kind of a motion
13	before trial with respect to pretrial publicity, did you?
14	A No.
15	Q And in fact did you ask the jurors any questions
16	about whether or not they had read in the papers any of this
17	publicity that appeared or heard in the radio or seen it on
18	television arising out of the homicide, and this defendant was
19	the same Donald Ramsey?
20	A Yes.
21	Q You asked such questions?
22	A Yes.
23	Q What did they say?
24	A No. I think the judge also asked them if they
25	had read anything about the robbery case.

191 De Sal Domanti - cross 27, '73 where you say, "As I recall in the case of each prospective juror we asked whether he or she read newspaper . 3 articles or listened to television coverage relating to Ramsey's also pending murder indictment." 5 I must have. 6 7 In other words, your recollection in July is better 8 than your recollection today as to what happened in 1968? 9 Probably, yes. I remember asking them about news-10 papers and radio and television. 11 So I would gather then if your recollection is 12 better in this affidavit that your recollection was probably 13 better when you met with Mrs. McMeen and myself than today 14 in the courtroom. Is that correct? 15 No. 16 It is better about this one fact. 17 At that time I came to your office I really hadn't 18 thought about it that much. It was something that happened 19 seven years ago. You asked me to come to your office and I 20 did. You asked me to discuss the matter with you and I did. 21 You asked me to tell you to the best of my recollection what 22 had occurred. You asked me many questions and I had answered 23 to the best of my ability at that time. 24 Later when matters developed Mr. Spiegel called me

into his office and I spent many, many hours thinking about

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this thing seven years ago and thinking and trying to remember and it was very, very difficult. It still is.

- Q So your recollection on that point was better in July, namely, about the voir dire than it was today?
 - A I don't know. It may have been.
- Q Well, apparently you say it was in July and incorrect today. Now, a brief point about this hat that you were very concerned about, that is called a Fila, F-I-L-A, you advised Mr. Ramsey he shouldn't wear it because it might inflame the jury against him because of associations with black power and that type of thing?

A Yes.

- Q Did you question the jury on voir dire about this, whether they would be prejudiced against a man such as Mr. Ramsey who is sitting here in the courtroom wearing this hat, did you ask those kinds of questions?
 - A I may have.
 - Q What is your best recollection?
 - A I probably did. I don't remember.
- Q If you asked those questions why was it necessary for your first question on direct examination to commence by asking Mr. Ramsey why he wears this hat, which was your first question on direct.

To let him clear it up and explain it was a religious

type situation rather than a black power type movement because there were many strange things happening in the Village at that time.

Q It's correct, isn't it, that you didn't submit any requests to charge the jury, either orally or in writing to Judge Murtaugh, did you?

A I did not.

Q You didn't object in any way to the suggestions for requests to charge made by the People or by the charge as delivered by Judge Murtaugh. Is that correct?

A That's correct.

Q And you realize that as far as preserving the record for appeal that when you don't except to the charge it is difficult in the State Court to then question the charge on appeal; you understand that, don't you?

A Yes.

Q The fact was it sort of is the routine you except to the Judge's charge but you didn't do so because in fact you never had a jury trial and didn't know what you were supposed to do as far as preserving the record was concerned, did you?

A I think I did. I listened to the charge very carefully.

Q In other words, you were perfectly satisfied with it, so there was no need to except?

Domanti - cross

- A I thought it was a fair charge.
- Q What about his marshaling of the evidence?
- A I thought that was fair.
- Q Just a couple of more questions on one point and then I will be finished; that is, you said you spent 50 to 75 hours as best you can recall on this case.
 - A Yes.

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- Q What you really meant, wasn't it, as you told us last summer that it was really on the whole ball of wax and that included the homicide, rape and robbery and this was the least important of those cases, wasn't it?
- A I didn't say this was the least important of those cases. Those are your words. What I did say at the time was it was very difficult for me to remember how much time I spent on each specific case because when I was out at night trying to find witnesses and interviewing people I was talking to people about homicide, and trying to get information about a girl who was allegedly raped, and her activities on that day.

Donald had told me several things about this young lady that I wanted to check out and try to verify so that I might be able to impeach her at some future time were there a rape trial.

Isn't it fairly clear in your mind and in fact you

DeSal

Domanti - cross

told right off the bat in this interview last summer, and
this is, I believe, a quotation, that the robbery case was
"strictly secondary"; that the really important thing was the
homicide?

MR. SPIEGEL: Are you reading from some document that you took down at the time of this meeting?

MR. LEVIT: I have my own personal notes which have the words written down "strictly secondary". I am asking whether he recalls saying those words to me and Mrs. McMeen in our interview.

"strictly secondary." I don't think I used the expression "strictly secondary." I don't think I ever used that in my life. What I may have said to you at the time in my version and the amount of time I was spending on the cases, that the homicide case was more important mainly because there were a lot of other involvements. I heard people talking about other people who were in the basement, about Donald being high that day, possibly on LSD, and wind and that he may have gone upstairs and someone bringing him a drink with blood. I was trying to find the individual who found the drink with blood.

These people are very difficult to locate. A lot of them lived in and around the Village in what they call these crash pads. A lot of them were hippies but a lot were privy to what was happening in that area.

- Q But that had nothing to do with this case, in the defense of this case which only carried a penalty of 25 years; it was a class B felony, wasn't it, robbery 1.
 - A Yes.
- Q Didn't Mr. Ramsey receive the maximum sentence that the judge could impose?
 - A Yes.
 - Q It was a fairly serious case?
 - A Yes
- Q You regarded it as a trivial matter because you were concentrating on the murder case, weren't you?
 - A No.
- Q But it's a fact that you really didn't put in anywhere near 50 or 75 hours on this case or even 25 hours prior to trial on this case, the robbery.
- A I did. Again, to be fair, I really can't specifically say or point out or take one or two hour periods and say in that period I only worked on the robbery case. The robbery, the homicide, the rape.
- Q You told us you don't recall but you might have talked to Reed, you talked to Ramsey a few times, you didn't talk to these other people except ones outside the courtroom, you didn't file any briefs, no motions --

THE COURT: Wait a second. If you are going to

1	DeSal Domanti - cross 197
2	finish one way not to succeed in that is to review all the
3	testimony. Just ask questions.
4	Q What did you in fact do besides talking to Ramsey
5	and you say his wife and maybe Reed and this other individual
6	once outside the courtroom, what did this time, what was it
7	spent on?
8	A Talking to Donald, talking to people on the street
9	with respect to Donald. Whether they had seen him on the day
10	of the robbery, if anybody saw him out of his home, if any-
11	body saw him at home, heard drumming in that area, many people
12	in that area who knew Donald and me.
13	Q That was your version?
14	A Part of it.
15	Q You didn't do any legal research on this case?
16	· · A No.
17	Q And you certainly didn't file any written papers
18	at any time in this case prior to trial, did you?
19	A No. I filed some on the homicide.
20	Q And nothing during the trial?
21	A No.
22	MR. LEVIT: No further questions at this time but
23	let me just check with my co-counsel, Mrs. McMeen.
24	THE COURT: All right.
25	(Pause.)

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concerned you didn't file a notice of appeal, and the whole representation was shoddy, and as a result of that he was getting another counsel on the homicide case in which he filed a life sentence?

1	DeSal Domanti - cross 199
2	A No.
3	Q But he did in fact fire you?
4	A Yes, he retained another counsel.
5	MR. LEVIT: No further questions.
6	MR. SPIEGEL: I know the hour is late but there
7	are one or two points made on cross examination that are
8	somewhat surprising to me, and I would like to request a short
9	five minute recess to discuss one or two points with Mr.
10	Domanti.
11	THE COURT: No, I don't want you to discuss them
12	with him. You may question him about them on redirect if you
13	wish to.
14	REDIRECT BY MR. SPIEGEL:
15	Q What days did this meeting that Mr. Levit mentions
16	between you and himself take place?
17	A I don't know. It was during the week. I don't
18	remember what days.
19	Q What dates?
20	A I don't remember.
21	Q What year, what month?
22	A Back months ago. I don't remember what month.
23	Q Last summer?
24	A Probably. He called me and asked me to go to his
25	office and discuss this matter with him. I did.

DeSa1

Domanti - redirect

Q Did he advise you in advance of the meeting what the substance of this meeting was going to be about?

A He told me he had been assigned by the court with respect to a matter involving Donald Ramsey whom I had represented, or something to that effect. I really don't remember the exact thing. I don't remember whether it was he who spoke to me on the phone. It might have been a female. I don't recall at this time. We made an appointment and I went to his office.

Q Did he warn you in advance of the meeting as to the nature of the proceeding that he was bringing in the Federal court?

A I don't understand what you mean. He told me he had been assigned to investigate the matter by the court and that he was, and that the court or I believe it was the court had suggested to him that he contact me and speak to me about it, something to that effect.

Q Did he tell you what the nature of his investigation was or what the claims were that were going to be advanced in the Federal court?

A Well, after we talked for a while he then gave me or hanced me a copy of an affidavit, Donald's affidavit.

Q I'm talking about on the telephone before you came to his office.

A Oh, no. He just told me that he had been assigned on the matter regarding Donald Ramsey and since I had represented him in the robbery case he would like to discuss it with me, and I went to the office and discussed it.

Q Were you aware that there was at that point a case pending that involved Mr. Levit, and that this particular case --

A I really couldn't say yes or no. Possibly. I think "would have had to assume since he did on the phone, I believe, mention that the judge, I believe it was his Honor, suggested to him that he get in touch with me and speak to me about it. I guess I at that time assumed there was something pending in court. That's the best I can remember.

Q Were you warned on the telephone as to the fact that a large part of the claims are directed against your representation as counsel?

A No, not really on the telephone.

Q How long was this meeting that you had with Mr. Levit?

A A couple of hours. I den't remember the time. I don't know how long it took. Two hours, two and a half hours.

Q Did Mr. Levit tell you that he was taking notes on the meeting?

No, but he had a pad and there were other people

Yes. Could you estimate how many?

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1	DeSal	Domanti - redirect	204
2	location.		
3	Q	Where were your offices at the time of this t	rial?
4	A	205 Prince Street.	
5	Q	Do you remember about when you moved out of t	hose
6	offices?		
.7	Α .	No, not really but years ago.	
8	Q	You moved again after that?	
9	A	Yes.	
10	Q	Each time you moved all your records?	
11	A .	Oh, yes.	
12		MR. SPIEGEL: No further questions, your Hono	r.
13		THE COURT: Anything else, Mr. Levit?	
14		MR. LEVIT: I have no further questions of th	is
15	witness bu	at I would like at least at some point to have	our
. 16	Exhibit 2	received in evidence. I would like to offer t	hat in
17	evidence.	It's the indictment that on the back shows wh	en it
18	was filed		
19		THE COURT: Any objection?	
20		MR. SPIEGEL: No.	
21		THE COURT: Received.	
22		(Petitioner's Exhibit 2 received in evidence.)
23	J	(Witness excused.)	
24	BARBA	RA DODD ELLMAN, called as a wi	tness
25	on be	ehalf of the respondent, after being duly sworn	

1	De Sal	Ellman - direct	205
2	DIRECT	EXAMINATION BY MR. SPIEGEL:	
3	Q	Bobbi, do you know Mr. Domanti?	
4	A	Yes, I do.	
5	Q	How do you know him?	
6	A	I met him I guess sometime in '67 and we da	ated and
7	I also	helped him as an assistant in his law practice	
8	Q	Did you work for him covering cases?	
9	A	We were together a lot, and most of the tir	ne I
10	helped l	him with his typing, I was with him in court,	id a lot
11		running around. Generally anything that I could	
12		ssistance when I was there.	
13	Q	In other words you performed in the capacit	y of a
14	secretar		
15	A	I guess so.	
16	· . Q	Were you paid?	
17	Α.	No.	
18	Q	Did you perform any secretarial assistance,	that
19	type of	duties, in conjunction with this case here inv	
20		bery of the liquor store by Donald Ramsey?	
21	Α.	Directly and indirectly. I typed a stateme	nt from
22	Mr. Rams	sey and in that statement was some of the robbe	
23	formatio		
24	Q	Did you perform any courtroom duties in con	nection
25	with thi		
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22 23

A I was there to -- I was in court. Most of the time when court was in session with the case just to help run around and do the things that had to be done, if Mr. Domanti was unable to do it, like go to other Parts and generally stay around and just listen to what was going on.

Q Mrs. Ellman, do you recall accompanying Mr. Domanti
to court at a time shortly before the actual trial of Mr. Ramsey
for robbery occurring?

A Yes, we were in court.

Q And do you recall any incident that happened after you had gone to court with Mr. Domanti?

A I don't know whether I totally understand the question.

Q Do you recall an individual or anybody coming up to Mr. Domanti after your court appearance with him?

A There was one time when a man came up to us in court. We had been trying to reach a number of supposed witnesses and hadn't been able to and this fellow came up to us one day in court, outside actually, it was in the corridor outside the courtroom and said that he would say what had to be said if he had to say it. I mean that's paraphrasing because I don't remember the exact words. There was a discussion between Mr. Domanti and he and Joe told him that if it was going to be perjury that there was no need for him to say

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anything at all.

De Sal

Q How far were you from Mr. Domanti when this conversation took place?

- A I was right next to him.
- Q Do you recall Mr. Domanti's reaction after this conversation took place and the individual left?
 - A He was angry.
 - Q Do you remember what he said?
- I can't remember exactly but it was basically "He's get to be crazy." I mean that kind of feeling. I can't remember the words but he didn't want anybody to perjury themselves. His feelings were the person that would would have to be crazy. I mean that's basically it. I don't remember the rest of it.
- Q Now, did there come at any point in time prior to the trial when you met the defendant's wife?
 - A A couple of times.
- Q Do you recognize Mr. Ramsey's wife and is she in court today?
- A I believe I recognize her. It is eight, seven years and she does look different, but I believe it is his wife.
- Q Do you recall any conversations that Mr. Domanti had with Mr. Ramsey's wife prior to the trial?

De Sal

Ellman - direct

A A couple of them but I can't put a lot of them into exact locations because I remember a lot of words and things that were said. I was only apprised of this a couple of days ago and really hadn't been thinking about it in many years. I remember her saying that she didn't want to testify because she was frightened. I can't remember who she was frightened of. She said -- one time we asked her if she wanted a ride home and she said no because Donald would get jealous.

whole conversations. I remember one time we went to -- I can't remember whether it was Donald's mother's house, it was an apartment, but part of that happened outside of the complex when we said that we would give her a ride home, and that was the jealousy bit and the part about she was afraid -- she was afraid to testify. I don't know why.

- Q Do you recall by any chance about when these incidents took place?
 - A I really can't put them in chronological order.
- Q When is the first time that you learned about this case that is taking place today?
- A I believe it was either the late summer or early fall.
 - Q I am talking about this particular proceeding today

1	DeSal Ellman - direct 209
2	A Oh, this proceeding.
3	Q Yes, when did you first learn about this?
4	A That I would have to be here at all, yesterday. I
5	got a phone call ten o'clock in the morning. Mr. Domanti had
6	called me about a couple of weeks ago and spoke to my husband
7	and asked me if it was necessary for me to appear in some sort
8	of a hearing, would I? I didn't even know at that time what
9	it was about. I said of course, if I could be of any help in
10	any way but I didn't remember very much about anything from
11	that period. Yesterday I got a call from Mr. Domanti's
12	office he would like me to meet him at the Attorney General's
13	office. That's when I really heard about it.
14	Q Bobbi, I'm going to show you a copy of a typewritter
15	series of papers that's been put in evidence as Exhibit 1, it
16	hás 40 pages
17	THE COURT: It's not yet in evidence. It may be
18	offered later but at the moment we haven't received it.
19	Is that right?
20	THE CLERK: That is right, your Honor.
21	Q Do you recognize this document?
22	A Yes, I do. 'I typed it.
23	Q What did you type it from?
24	A Handwritten yellow sheets of paper, yellow or
25	manila as I remember them, in pencil that were written by

Donald Ramsey while he was in jail.

Q Do you have these handwritten sheets at this point?

A No. To the best of my knowledge they were turned over to the attorney who, I don't know his name, who later represented him in the murder trial.

MR. SPIEGEL: Your Honor, at this time we would like to introduce in evidence this 41 page stenographic typewritten document.

THE COURT: Leaving aside any possible error, was it your purpose to type exactly what was on those handwritten sheets?

THE WITNESS: Yes.

THE COURT: Not something else?

THE WITNESS: No. I typed exactly the words, spelling, grammar that were on those sheets exactly. That's why there is a lot of misspellings, a lot of grammatical errors and things like that because they were typed from the notes verbatim.

MR. LEVIT: Your Honor, I think at least a part of it is probably maybe not admissible. Mr. Domanti testified that it was his understanding that the entire document was not typed by this witness and she only typed part of it.

THE WITNESS: As far as I know I typed 95 per cent of it. Our typewriter was stolen somewhere along the line and

later somebody finished the last two pages, but that was all.

about the making of a handwritten document, we have had whatever we have had from Mr. Domanti, we have had Mrs. Ellman's testimony. If the petitioner wants to be heard in rebuttal questioning the accuracy of this in any respect he may take the stand. It is received.

MR. LEVIT: In view of the time limitations it is not feasible. I haven't had a chance to read it and I don't know what's in it.

THE COURT: Justice is not supposed to be rationed too tightly. If we are not finished this afternoon, and it begins to appear we are not going to be, you will come back in the morning.

MR. LEVIT: Maybe I could look at it overnight.

THE COURT: Maybe you could.

MR. LEVIT: I will say this: We did make a request sometime ago for the documents by letter and we didn't have notice of this until --

THE COURT: You may look at it overnight. I'm sure you will be able to work it out with Mr. Spiegel in some way. Since there is only one of them you may want to take some precautions to see that it doesn't get away but we will give you overnight.

	1	DeSa1		Ellman - direct	212
	2		MR. LEVIT:	That would be helpful.	
	3		THE COURT:	All right.	
	4		(Petitioner	's Exhibit 1 is received in	
xx	5	evide	nce.)		
	6	Q	Bobbi, coul	d you look at the date on the	first
	7	page, page	1, and tell	the court what that date is	
	8	A	7 October 1	.967	
	9	Q	Do you know	what that date refers to by	any chance?
	10	A	That was th	ne date of the Linda Fitzpatri	ick, Groovy
	11	Hutchinson	worder.		
	12		MR. LEVIT:	I object to this line of que	estioning
	13	when she d	idn't know w	that the date referred to. A	ll she was
	14	doing was	typing what	somebody else wrote.	
	15		THE COURT:	You can object. Is that a	disputed
	16	question r	eally?		
	17		MR. LEVIT:	It is in the document.	
	18		THE COURT:	I am only giving you a sugge	estion,
	19	that it wo	uld be desir	rable to save your objections	for things
	20	that matte	r. That one	e doesn't seem to me to matte	r /
	21		MR. LEVIT:	I agree but I think it has	been
	22	testified	to that Mr.	Ramsey prepared the document	and it just
	23	seems inco	nsistent to	ask her what things mean in	the document
	24		THE COURT:	Go ahead.	
•	25		You did in	fact type this document?	

1	DeSal Ellman - direct 213
2	A Yes, I did.
3	Q Could you turn to page 16, please.
4	A Yes.
5	The portion at the top of the page, do you recall
6	typing that from Mr. Ramsey's handwritten notes?
7	A Yes, I do.
8	Q That page refreshes your recollection?
9	A Yes, because of the typeovers, because I underlined
10	it.
11	Q Could you read the page from the very top to the
12	end of the underlined portions, please.
13	A "Or so I don't know exactly. I wholeheartedly
14	refuse to go on Avenue D along with that girl, so
15	and her left me on Avenue C and 14th Street. I heard
16	about the liquor store being sobbed three weeks ago,
17	so I told her that I did the robbing and might be recog-
18	nized. Now that I am writing this I suddenly realized
19	how they have me tangled up in that robbery the same day
20	she came to the 5th Street Station. They returned along
21	with the reefers."
22	MR. SPIEGEL: Your Honor, I would like to make an
23	arrangement with Mr. Levit to Xerox two copies before we
24	actually submit this in evidence. As far as I know this is
25	the only available copy.

1 DeSal

right?

Ellman - direct

THE COURT: I'll let you do that. Are you through or almost through?

MR. SPIEGEL: Yes. I have a motion on at 4:30.

I assume you don't need much over an hour tomorrow. Is that

MR. LEVIT: That might be too much.

THE COURT: If it is too much don't feel obliged to use it up. We have another case starting at 10:00 a.m. tomorrow.

Now, I'm going to set you down for 9:45 in this room tomorrow morning to complete this proceeding and I will repeat we have another case scheduled to start at ten so you must not feel obliged to run beyond ten o'clock. If you can get finished sooner that's perfectly agreeable with me.

MR. LEVIT: Your Honor, just one practical problem.

I don't like to create problems for the court, but in order to really intelligently evaluate the document it has to be reviewed by Mr. Ramsey and the no visiting hours between tonight and tomorrow morning and unless he is brought over here early in the morning it would be useless for me.

THE COURT: Are you about to Xerox it?

MR. SPIEGEL: I will do it.

THE COURT: Is that back at World Trade Center?

MR. SPIEGEL: I will Xerox it here. If we have to

DeSa1 Ellman - direct 215 we will split the cost. THE COURT: Why don't you then arrange to Xerox it 3 and get an extra copy and have it delivered to him at the 5 House of Detention and let him read it overnight. 6 Can we get Mr. Ramsey back here about 9:15 tomorrow 7 morning? 8 THE MARSHAL: I'll tell him inside your Honor that 9 you need him by that time. 10 THE COURT: He should be here in the courtroom 11 available to defense counsel at 9:15 tomorrow morning and it's 12 urgent. . I know there is a problem but see if you can 13 do that. 14 THE MARSHAL: I will. 15 THE COURT: That gives you a half hour. 16 MR. LEVIT: As I understand it, a copy will be 17 delivered tonight to Mr. Ramsey. 18 THE COURT: You don't understand it. Work it out 19 with your brother on the other side. 20 21 22 23 24 25

1 DeSa1 210 2 UNITED STATES OF AMERICA 3 vs. LEON VINCENT, SUPERINTENDANT, GREEN HAVEN CORRECTIONAL FACILITY 5 6 New York, April 25, 1974 9:45 o'clock a.m. 7 (In open court.) 9 THE COURT: Are we ready? MR. SPIEGEL: Yes, your Honor. 10 Mrs. Barbara Dodd Ellman, resumes. 11 12 THE COURT: All right, Mrs. Ellman's cross examina-13 tion, is that what we are up to? 14 MRS. MC MEEN: Yes, your Honor. 15 THE COURT: Let's proceed. CROSS EXAMINATION BY MRS. MC MEEN: 16 17 Mrs. Ellman, between the close of the court session yesterday and today did you discuss this case with Mr. Domanti? 18 19 As a matter of fact, no. 20 In reference to the exhibit that was produced 21 yesterday, which is Exhibit number 1, the typewritten 40 page 22 document which you testified that you had typed at least in 23 part, do you know where it was kept? 24 Which, the typed or the original? 25 Yes, the typed.

1	DeSa1	Ellman - direct	217
2	A Y	es, it was kept in Mr. Domanti's files.	
3	Q A	nd do you know how it came to be uncovered?	
4	A Y	esterday?	
5	Q Y	es.	
6	A A	s far as I know, and I was only there for p	art
7	of it, someb	ody who works for him went through all the	files
8	and pulled o	ut all the files on the Ramsey case, of whi	ch
9	there were f	ive or six envelopes. Mr. Domanti has move	đ
10	twice since	the trial, so things were in a lot of disar	ray.
11	Q D	id you see any of these five or six envelop	es?
12	A Y	es.	1
13	Q C	an you tell us what was in them?	
14	A N	othing much. This piece of work. There wa	s,
15	from what I	saw now, and I'm not sure, I think one was	an
16	affidavic of	some sort, at least it looked like it. An	d two
17	of the envel	opes were empty. That was all I saw. A co	uple
18	of scraps of	paper.	
19	Q Y	ou spoke about the original and that you ha	d seen
20	it at one po	int.	
21	A I	typed from it.	
22	Q D	id you know what had happened to that original	nal?
23	A N	ot of my wn knowledge. I can assume what	happened
24	to it becaus	e of what was supposed to happen to it but	I don't
25	know for sur	e.	

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Do you know of any efforts that were made to locate it at any time? I haven't been involved with this. The first I

knew about coming into court was on, I guess it was, Tuesday morning at ten o'clock. So I have not been involved with it. I don't know.

Did Mr. Domanti ever say to you that he took the Ramsey case without a fee in order to gain publicity and enhance his reputation?

A No.

Did you ever have a discussion with Mr. Domanti that the three cases he took on on behalf of Donald, the robbery, the rape, armed robbery and double homicide were his first jury cases and he was concerned about his lack of prior experience before a jury?

I don't believe it was his first jury case.

Can you recall what his first jury case was?

No. I don't remember the case itself but I can't say positively but as far as my recollections are it was not his first jury case. There were many cases Mr. Domanti took on at that time for the Villege cases.

Can you recall any experiences he had with a felony Q charge?

I wasn't involved in all his cases.

De Sal

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Ellman - direct

2 Q So you cannot remember?

A I cannot remember. I remember only a few of the trials or cases.

MRS. MC MEEN: I have no more questions.

MR. LEVIT: Your Honor, at this time I think I would object to Exhibit 1 staying in evidence and that it should be stricken on the grounds that there hasn't been a showing that any efforts were made to locate the original and, therefore, the best evidence rule has not been satisfied. Mr. Domanti has indicated that the original is with Mr. Crane.

As your Honor indicated yesterday, although I couldn't locate with Mr. Crane in one night, and arrive from the west coast; that he is still practicing in New York and the original could have been subpoensed and it wasn't.

Therefore, I suggest that this transcription is not properly admitted into evidence and should be stricken.

THE COURT: As to the west coast business I don't want to hear any more about that. Mr. Ramsey has ample representation by a distinguished person from an outstanding law firm who is here at your request and has been here throughout the excessive number of weeks and months it has taken me, and I apologize for that, to reach this hearing, but comparing the facilities available to Mrs. McMeen and those available to the Actorney General, I'm not sure who wins.

You people have been aware of that handwritten statement for a very long time and you are also aware, because you have the author of it before you, of any possible inaccuracies in the document that's been produced. I told you yesterday, and I repeat, that in the interests of seeking the truth I will hear anything on that subject that anybody wants to submit under oath. Other than that, your motion is denied.

MR. LEVIT: I think at that point then we have no further questions certainly of this witness.

There is one other exhibit that I would like to have marked and offered in evidence.

THE COURT: Do you have any redirect?

MR. SPIEGEL: No.

THE COURT: All right, Mrs. Ellman.

(Witness excused.)

MR. LEVIT: I take it you want us to keep possession of the exhibits, your Honor?

THE COURT: Well, are you planning to submit any post hearing memoranda or other materials?

MR. LEVIT: I would certainly leave that up to the Court but it's our feeling, at least on this side, that we have exhausted the brief of this matter already and it would be unnecessary to burden the Court with any further papers at this time. We don't feel that unless the Court sees otherwise

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that it would be appropriate.

THE COURT: Do you share that view, Mr. Spiegel?
MR. SPIEGEL: Yes.

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THE COURT: I am willing to agree with both of you, in which case I think the sensible case is for you to lodge the exhibits with the clerk of the court, who will give them to me, so that I may make reference to them in anything I write, and then they can, of course, be returned to counsel in the usual way.

MR. LEVIT: We will Xerox them today and send up the originals and lodge them with the clerk.

THE COURT: You want to do that with Exhibit 1 as well? Just see that I get them all.

MR. LEVIT: I think the Attorney General, we made 'him a copy of Exhibit 1 yesterday, so I take it he can just leave that one now, can't you?

MR. SPIEGEL: Yes, I can certainly leave that now.

THE COURT: Then leave it.

MR. LEVIT: I would just like to make a copy for our files of our two exhibits. Do I understand correctly that the Court does have a copy of the trial transcript?

THE COURT: Yes. I think that was given to us by the Attorney General's office.

MR. LEVIT: At least you do have it.

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THE COURT: We have it and I think we are supposed to give it back eventually.

MR. LEVIT: The only other exhibit that I would like to have marked and then offered into evidence is a Xerox copy of four papers of the Supreme Court of the State of New York docket entries indictment 3996 of '67, People against Donald Ramsey, which is this case, the robbery, and I'd like to have it marked and then offered into evidence simply because it sets the chronology straight. It indicates, the first entry is Notice of Appearance filed by Mr. Domanti on November 21, 1967, in Part 30 of the Supreme Court, New York County.

The second entry is arraignment and it indicates that Mr. Domanti was present before Judge Postel in Part 30 on November 28, 1967, at which time the defendant entered a plea of not guilty. It's for that purpose that I am offering this, after it is marked, as our Exhibit 3 in evidence.

THE COURT: Listen, if that's all you are offering it for, and you have now told me what it says, do I need it?

MR. LEVIT: Not unless the State feels that it is necessary to round out the record. I just wanted those facts to be before your Honor.

THE COURT: Well, Mr. Domanti entered his appearance November 21 and that Mr. Ramsey was arraigned November 28.

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mitted at this hearing that there is really no basis for the petition. Perhaps there were errors committed at the trial, and I would be the first to admit it, but that these errors were harmless errors and there were gross inconsistencies in petitioner's alibi as he advanced it. In any event, even if there had been a hypothetical perfect counsel it would have made no difference.

THE COURT: Wall, let me take that view along with the opposing view of the petitioner under advisement.

I think I only have one question to ask you, Mr.

Levit. I believe Mrs. Ramsey in response to a question put
to her by me indicated that you as counsel in this proceeding
had been made aware of the names and locations of one or more
of the alibi witnesses who were not called at the trial of
Mr. Ramsey.

You have in the past relied on a case of mine called Norman Thomas, among a lot of more imposing authorities on this subject. It runs in my mind that it was an important consideration in that habeas case, at least to me, that the witnesses whose absense at the State trial was asserted as a main ground for the incompetence of defense counsel were found and brought before me. They gave under oath their testimony, which I frankly didn't believe, but I was led to the view that a jury could have believed it and that it was indeed

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derelict of defense counsel to have failed to procure people who were prepared to say these things under oath both at his trial some years before and again here in the Federal Court.

I am not directing you to respond to this, expecially if there is nothing privileged --

MR. LEVIT: I would like to respond.

THE COURT: -- but you may want to.

MR. LEVIT: Definitely. As your Honor is aware from Mr. Domanti's testimony yesterday, within a week of being assigned by your Honor I contacted Mr. Domanti, gave him a copy of your Honor's memorandum opinion, had him in my office and interviewed him at length with Mrs. McMeen and another lawyer. I immediately before that had communicated with Mr. Ramsey and interviewed his wife several times, and through her -- I think it's hard certainly for me to appreciate and perhaps hard to express to the Court that it is not like trying to find witnesses in the normal kind of a case.

First, it is six or seven years later, but I was, through Mrs. Ramsey, able to get in touch with Mr. Aponte, who was the man who had the least to do with this. He was the man everybody agrees left early, although there is a question of how early he left. I saw him in Brooklyn on one or more occasions and it was through him that I made contact with Mr. Curtis, who in turn made contact with Mr. Jones.

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I was never able to either speak with them or even to be given their addresses or whereabouts. But it is true that seven years later I was able to make contact with them.

Mrs. McMeen has also -- did you talk to Mr. Curtis?

MRS. MC MEEN: Yes, I spoke to Mr. Curtis by tele-

MR. LEVIT: We never got his address. We thought that these are people I think who have had their own experiences with the law, and who have knowledge of it, but I assume have been incarcerated from time to time and are very reluctant to get involved with the law.

Under these circumstances and given the fact I didn't have their addresses, it would have been rather difficult to subpoena them, and I didn't feel on balance that -- first, Aponte really -- he was there only a short time so his testimony wouldn't have done too much. Even he was rather elucive, although I didn't see him, and I could have subpoenaed him, and I decided based on my experience and judgment it wouldn't be that useful.

As to the other two I wasn't able to get close enough, although Mrs. McMeen did talk to one of them, to be able to form an opinion. I really felt on balance, when the whole record was before your Honor, that this case would be so clearly distinguishable from Thomas against Selker because

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there the case, as I read it, turned on two things or at least two principle things. One, this musical chairs with the Legal Aid Society, and secondly about the witness; whereas this case has many, many issues that have nothing to do with inventing the alibi. And in fact we did produce Mr. Ramsey and Mrs. Ramsey on the question of the alibi.

I don't want to take too much of the Court's time, but I would like to say that I did contact Mr. Reed and Mr. Reed is not particularly a responsible individual. I got the impression that he might not have been completely in touch with the situation when I saw him. He still lives across the street from the Project Liquor Store and he said he didn't want to get involved. In those circumstances I didn't feel it would be useful to subpoena him.

I did go to the Project Liquor Store and I interviewed Mr. Epstein on two occasions and I think everybody agrees Mr. Roman is no longer available. Mr. Epstein also didn't want to get involved. I could have subpoensed him but I didn't think it was really worthwhile because he had nothing to contribute to our case.

Our questions were about what Mr. Domanti failed to do and Mr. Epstein was called and testified and was cross examined. The only thing he did say, and I'm not trying to be a witness testifying but I'm trying to answer your questions.

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he did say he was never contacted by Mr. Domanti and I was going to put him on for that but Mr. Domanti, I figured, would establish that for himself since he told me that at the interview and he said that on the stand. So there was no reason to call him.

Mr. Roman would have been more useful to us because of this alleged fight, but Mr. Epstein didn't know where he was. He had been gone for several years and the owner of the store dicn't know, so that was a fruitless endeavor. But it's our position certainly, and your Honor heard all the evidence, that the kinds of errors that Mr. Domanti, we claim, made, and I think they were rather apparent in his testimony, go much, much further than just this question of the alibi.

probably be out on our ear and you might deny the petition from the bench, but there are many, many other problems here that trouble me a great deal as somebody who has tried criminal cases. It is for those reasons that we decided to put on the case in the manner we did. To a large extent that was based on a rather in depth knowledge interview with Mr. Domanti last June. That really framed our thinking, although we still tried to contact these people up to about a week ago and even more recently.

I hope that answers the Court's question.

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THE COURT: You certainly have answered it and I have never had any doubt that you and Mrs. McMeen have done a noble job of work in this case.

My question didn't go at all to any concern on that score but rather to the legal effect of this factual distinction from the one case that is very familiar to me in this area on your petition, and I think you have given a fairly full answer to that.

We will take the case as submitted.

MR. SPIEGEL: If I may contribute one small point on the matter of the alibi witnesses. Our office was contacted by Mr. Levit or Mrs. McMeen and we were told at one point, I think several months ago, that Mr. Curtis was going to show up as a witness, and there was an about-face at one point, that he was not going to show up.

Well, I realize this doesn't contradict what has been said, it shows that while they did exercise good faith to try and locate these people, for whatever reasons they did not testify, and that is the plain, simple fact.

THE COURT: All right. Thank you all.

MR. LEVIT: 'Thank you, your Honor.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF HELL YORK

UNITED STATES OF AMERICA OR rel.

Petitioner,

-against-

Green Haven Correctional Facility, Stormville, New York,

Respondent.

Pro Se 72 Civ. 4660 MENORANDUM

FRANKEL, D.J.

The petitioner, who is serving a term of from

15 years to life for a notably brutal and much publicized

double homicide, sought federal habeas here some two years

ago to have that conviction nullified. The petition,

though it raised questions of some substance, was denied

by this court on February 16, 1973. United States ex rel.

Ramsey v. Zelker, 356 F. Supp. 275, aff'd, 480 F.2d 916 (1973).

The potitioner is also serving a term of

8-1/3 to 25 years for a robbery committed some two

weeks before the homicide. The instant petition attacks

the robbery conviction. Again, petitioner - aided once more

that are not trivial. The court has held an evidentiary hearing at which petitioner testified for himself and his wife supported him as a vitness. Potitioner's state trial attorney, whose conduct of the state trial is the main basis for the petition, was called as a vitness by respondent, along with an unpaid assistant the attorney employed at the times in question. The court has reviewed again the considerable file of papers, the state trial record, and the evidence taken here. The decision hereinafter outlined, denying the petition, is influenced in significant respects by the court's finding that both petitioner and his steadfast wife gave testimony at our evidentiary hearing which is not credible.

- 1. As an introduction to the claim that his trial counsel was faithless and ineffectual, petitioner has charged that the attorney was interested in selling, and busied himself with attempts to sell, the somewhat lurid story attending petitioner's homicide case. Upon the evidence heard here, these charges are rejected.
- 2. A more substantial argument was made that the defense lawyer failed to find and interview witnesses who would have established petitiones's alibi. This argument, however, is also refuted by our evidentiary record.

This court is convinced there were no such witnesses, though petitioner talked vaguely of their possible existence, and that the charge of dereliction in this respect is baseless because there was no valid alibit defense.

3. Petitioner has argued that his lawyer was grossly at fault in failing to demand hearings as to identification witnesses under United States v. Wade, 388 U.S. 218 (1967), and Gilbert v. California, 388 U.S. 263 (1967). The argument is buttressed by the seemingly successful use of such procedures on behalf of a man who was originally named, but then dropped, as a codefendant in the robbery prosecution. However, though the point has weight and has been argued forcefully, it is not in the end sufficient. Upon all the materials now before this court, it is clear that there were no genuine doubts about the identification testimony in this case. Petitioner's problem was not uncertainty in the identification, but the brute fact that the prosecution vitnesses knew him too Not only does the state trial record show there was ample time during the robbery for petitioner's image to impress itself upon the memories of the two prosecution witnesses; it seems plain in addition that petitioner

was known to one or loth witnesses even before the crimo. In a striking inconsistency, he argues that his lawyer failed him by neglecting to call a witness to a fist fight some time before the robbery between petitioner and one of the identifying witnesses. This, he says, would have shown blas. However that may be, it undercuts vividly the contention based u pon Wade and Gilbert. To similar effect is evidence before us that petitioner was taking care after the robbery to stay off the streetwhere the robbed liquor store was located, fearing he would be spotted and identified. The reason for the caution was obvious. He was well known in the neighborhood and in the liquor stone itself. Both from prior familiarity and from the circumstances of the robbery itself, the witnesses who identified petitioner at the trial had clear and powerful grounds for the identification.

^{1.} This neglected witness, who does not in fact appear
to have been comitable at the time of trial, does not
add in any way to the charges of ineffective representation.

the homicide charges in positioner's robbery trial gives considerable pause in retrospect. On balance, however, it is not possible even with hindsight to say this brings the quality of representation below the constitutional minimum. It is plain that the case against petitioner was crushingly strong. The identification evidence could well have seemed, as it does at this remove, to be impervious to frontal assault. The idea of undercutting it by continued reference to the surrounding flood of publicity also seems risky from our vantage point, and we know it failed. But in a case seemingly foredcomed, it is not to be condemned now and made the basis for nullifying the conviction.

^{2.} Cf. United States v. Fatz, 425 F.2d 928, 930 (2d Cir. 1970): "When, as here, the prosecution has an overwhelming case * * * there is not too much the best defense attorney can do. If he simply puts the prosecution to its proof and argues its burden prosecution to its proof and argues its burden to convince the jury Leyond a reasonable doubt, the defendant may think him lacking in aggressiveness, and surely will if conviction occurs. If he decides to flail around and raise a considerable amount of dust, with the inevitable risk that some may settle on his client, the defendant will blame him if the tactic fails, although in the rare event of success the client will rank him with leaders of the

5. Whis court rojects on the evidence here the claim that I dicioner was called without sufficient preparation to testify in his own defence.

6. In addition to the tagtical use of publicity dealt with previously, numerous other publicity-rolated claims are proffered. The alleged mishandling of the jumy selection and the not uncommon (if not necessarily desirable) failure to have the voir dire transcribed add sentially nothing to the petition.

Given the extensive media coverage of the murder charges in the fall of 1967, counsel's failure to request a venue change is of greater concern to the court. Yet this failure must In viewed in light of the defensive use of publicity to impeach the identification testimony. In addition, although prospective jurors were questioned about their knowledge of Ramsey and the rolbery, there is in the petition no allegation that there was a significant, or in fact any, affiguative response from

Footnote 2 cont'a

bar who have used such methods in some celebrated trials of See utto United States or rel. Crispin v. Hagest, 448 F.2d 233 (2d Chr.), cert. denied, 404 U.S. 967 (1971).

any member of the panel.

of in-trial publicity. Two articles appeared in the New York Post during the course of the trial. The jurors, while not questioned, were admonished by the court to ignore anything they might have read and to refrain from reading or listening to anything about the case until a verdict was reached. Thus, the resolution of this problem was not ideal. It seems unlikely, however, that there was prejudice since the two articles appear to have recounted mainly evidence the jurors had heard in the courtroom, including the outstanding murder charge against the petitioner which was highlighted in defense counsel's strategy.

petitioner is entitled to raise questions of prejudicial pro- and in-trial publicity. While petitioner has included this subject in his claims of incompetent counsel, he is not shown to have combausted state remedies on this charge as a ground for habeas in itself. Concluding that the argument must be rejected on its merits, this court finds

it unnecessary to recolve definitely the rather subtle question of exhaustion posed in the papers.

7. Additional contentions in the petition have been considered and found unmeritorious.

will be denied. Having reached that conclusion with less than absolute certainty, the court adds that its doubts respond in substantial measure to the advocacy on petitioner's behalf by Mr. William H. Levit, Jr., and Ms. Sheila T. McMeen, who have performed this assigned task with unfailing skill and devotion.

The petition is denied. So ordered.

Dated: New York, New York May 10, 1974 Mayrin E. Frankel

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

People of the State of New York, Respondent

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO VACATE JUDGMENT

Donald E. Ramsey, Petitioner

-v-

: INDICTMENT NO. 5996/6

PRELIMINARY STATEMENT

This is a motion to vacate judgment by DONALD E. RAMSEY, convicted after a trial before a judge and jury (Murtagh, J.) of the crime of Robbery in the First Degree (Penal Law Section 160.15) and sentenced to State prison for a term of no less than eight years and four months and no more than twenty-five years.

QUESTIONS PRESENTED

Whether the conduct of petitioner's trial counsel was so incompetent as to compromise his right to due process of law and the assistance of counsel, guaranteed by the Sixth and Fourteenth Amendments to the Constitution of the United States.

STATEMENT OF FACTS

On the night of September 22, 1967, around 8:30 p.m. the Project Liquor Store, 63 Avenue D, New York, New York, was robbed by two armed men who escaped with about \$500. in cash, obtained from the store's cash register and the persons of JOSE ROMAN and PHILLIP EPSTEIN, clerks of the liquor store. Although there had been four eye-witnesses (the two sales clerks and two customers) the investigation remained fruitless for the next couple of weeks.

Maroney, 235 A.2d 549, 427 Pa 599 (1967). In order to determine whether counsel's representation was less than adequate it is necessary to look at all the facts surrounding the case: "(d)determination of the effectiveness of counsel cannot be divorced from the factual situation with which he is confronted," <u>US v. Katz</u>, 425 F.2d 928, 950 (2d Cir. 1970). Probably the clearest and simplest advice is the following:

"While the constitutional "test" is not routinely formulated in such terms, any lawyer or judge might usefully wonder how he would react to having legal assistance" of the kind this petitioner received."

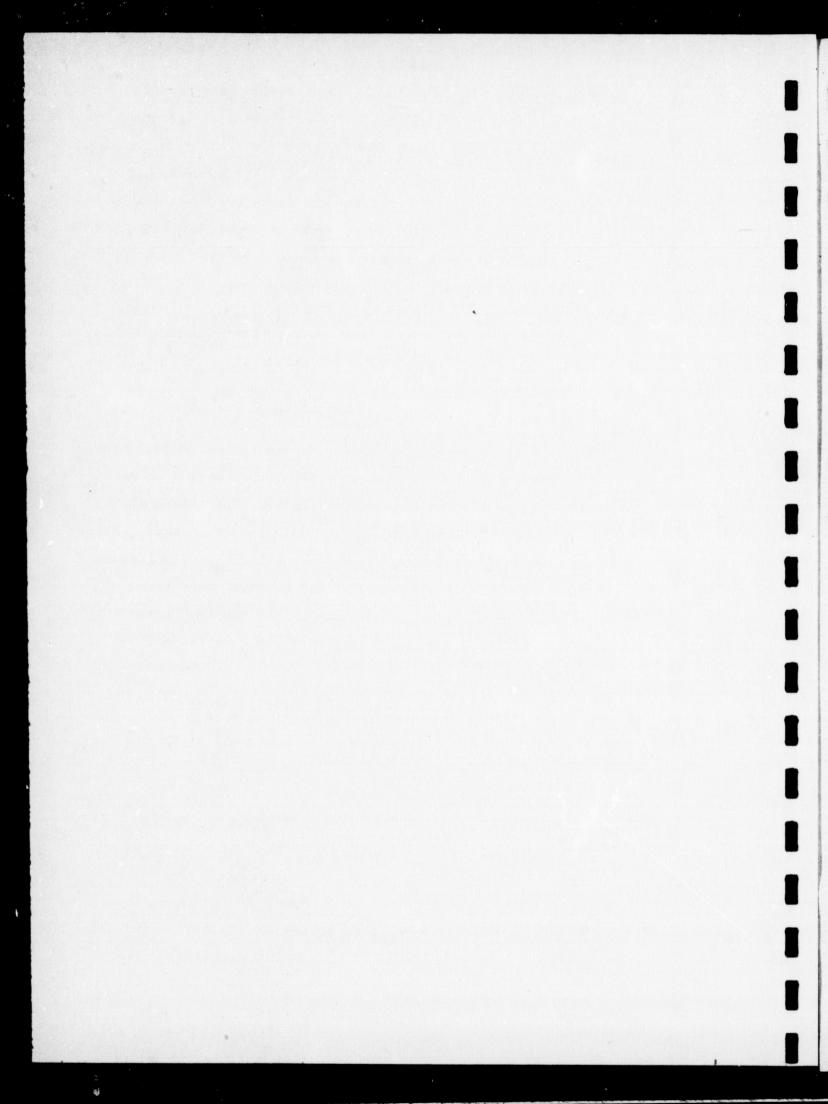
-US ex rel. Thomas v. Zelker, supra, at 599

Petitioner in the instant case had been indicted less than four months prior to his robbery trial for the double slaying of Linda Rae Fitzpatrick and James L. Hutchinson who had been found beaten to death in the basement of an East Village apartment in Manhattan. The murders had attracted nationwise attention, and the press had played up their horror for all that they were worth. An article in the January issue of Reader's Digest, condensed from Newsweek, started off by saying:

"The crime struck an especially sensitive nerve. To millions of parents, the murder of Linda Fitzpatrick was the realization of all those lurid visions that haunt the psyche late at night before the car rolls up the driveway."

Numerous other articles appeared throughout the nation. In the wake of this exceptionally emotional crime and the wave of adverse publicity it created, petitioner was tried on an unrelated charge of robbery. The Supreme Court, in Estes v.

Texas, 381 US 532 (rehearing den. 382 US 875 (1965) and Shepard v. Turner, 384 US 553 (1966) affirmed that in cases



of unusually extensive and prejudicial pre-trial publicity the defendant's right to a fair trial by an impartial jury may be jeopardized. Clearly, petitioner's counsel might well have requested a change of venue for the robbery trial. since in the New York newspapers the name Donald Ramsey had been associated with robbery, as well as with charges of homicide and rape. However, totally with/rhyme or reason, in direct derogation of the accused's best interest, against his wishes, and for motives which remain as yet unclear, defense counsel referred almost twenty times to the double homicide, bringing out that the defendant, in addition to the robbery charge, stood also indicted for a "very well publicized" double murder. (Trial Transcript, pp. 55, 56, 79, 80, 107, 221, 222, 223, 224, 225, 226). Defense counsel brought/ out repeatedly that a boy and a girl had been killed and that the story had appeared in the newspapers, on the radio and on television.

It is almost inconceivable that a conscientious attorney should ever find it to his client's advantage to banter about information regarding other, unconnected indictments his client has yet to answer: the defendant's right to an impartial trial will almost certainly be compromised. Here, petitioner, already charged with a very serious crime, was needlessly implicated for his role in one of the most talked-about crimes of the late 1960's: a crime of which her as yet, was presumed innocent. Instances of such flagrant incompetence are fortunately rare. In People v. Jones, 294 NYS 2d 827 (1963), the only New York case found involving even remotely the same degree of incompetence, the defendant was charged, like petitioner, with Robbery in the First Degree: